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# GENERAL LAWS

OF

## CALIFORNIA

AS AMENDED UP TO THE END OF THE  
SESSION OF 1897.

CONTAINING THE LAWS THAT ARE IN COMMON USE IN  
FULL, WITH REFERENCES TO OTHER GENERAL  
LAWS IN FORCE, AND ALSO TO SPECIAL LAWS  
IN FORCE OR SHOWING WHERE SUCH  
SPECIAL LAWS MAY BE FOUND.

BY

JAMES H. DEERING,

OF THE SAN FRANCISCO BAR.

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# GENERAL LAWS

OF THE

STATE OF CALIFORNIA

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## TITLE 1.

### ACKNOWLEDGMENTS.

Acts relating to, see Civil Code, Appendix, title Acknowledgments, p. 703 et seq.

### ADULT BLIND.

See Home of Adult Blind.

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## TITLE 2.

### ADULTERATION.

Acts relating to, see Penal Code, Appendix, title Adulteration, p. 495.

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## TITLE 3.

### ADULTERY.

Acts relating to, see Penal Code, Appendix, title Adultery, p. 506.

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## TITLE 4.

## AGED PERSONS.

See Home of Adult Blind; Veterans' Home Association.

An Act to appropriate money for the support of aged persons in indigent circumstances.

This act was repealed by the following act:

An Act repealing chapter ninety-six of the statutes of eighteen hundred and eighty-three, entitled "An Act to appropriate money for the support of aged persons in indigent circumstances," approved March 15, 1883.

[Approved February 28, 1895; Stats. 1895, chap. xii. In effect immediately.]

Section 1. Chapter ninety-six of the statutes of eighteen hundred and eighty-three, entitled "An Act to appropriate money for the support of aged persons in indigent circumstances," approved March fifteenth, eighteen hundred and eighty-three, is hereby repealed.

Sec. 2. This Act shall take effect and be in force from and after its passage.

## TITLE 5.

## AGRICULTURE.

See Fruit-trees and Vines; Horticulture; Silk Culture; Viticulture.

A collection of the acts relating to Agriculture and the State Agricultural Societies is contained in Deering's Annotated Penal Code, p. 411, et seq. In addition consult the following acts:

An act to authorize state agricultural societies under the control of the state to sell property held by them in fee, or held by trustees for their use, or in which they may have any interest; to prescribe a course of procedure therefor; to indemnify purchasers at such sale, and to direct how the proceeds shall be applied.

[Stat. approved February 25, 1897; Stats. 1897, chap. xxxiv.]

Section 1. Whenever any state agricultural society under state control shall desire to sell the whole or any portion of its real estate held by it in fee, or by a trustee for its use, or in which it may have any title, interest, or claim, it shall be lawful for such society or association to file its complaint in the superior court of the county in which such lands are situated, setting forth the nature of the title under which the land to be affected by the decree of the court is held, and what claim such society or association has therein; and that it is the desire of such society or association to sell such real estate, and praying for judgment authorizing it to sell the same. In such action the trustee or trustees holding title in trust for such society or association, or their successors, or the survivor or survivors of them, or such other persons deriving title from the trustees, as the case shall require, shall be made parties defendant; and upon the service of the summons upon such defendants personally or by publication, or upon their appearance, the court shall have full jurisdiction in the premises. Such society or association may include as defendants in such action in addition to such persons or parties as appear of record to have, and other persons or parties who are known to have, some claim in or lien on the lands described in the complaint; also all other persons or parties unknown, claiming any right, interest, or lien in such land, and the plaintiff may describe such defendants in the complaint as follows:

"Also all other persons or parties, unknown, claiming any right, title, estate, lien, or interest in the real estate described in the complaint herein." Service of the summons may be had upon all such unknown persons or parties defendant by publication, as provided by law in case of non-res-

ident defendants. All such unknown persons or parties so served shall have the same rights as are provided by law in case of all the other defendants upon whom service is made by publication or personally and the action shall proceed against such unknown persons or parties in the same manner as against the defendants who are named, upon whom service is made by publication, and with like effect; and any such unknown persons or parties who have or claim any right, estate, lien, or interest in the said property in controversy at the time of the commencement of the action, duly served as aforesaid, shall be bound and concluded by the judgment in such action as effectually as if the action was brought against such defendant by his or her name, and personal service of the summons obtained, notwithstanding any such unknown person may be under legal disability. The court shall have full power and authority to order the property sold. In case of a sale, the court shall appoint a commissioner to make the sale, and shall direct the manner in which the sale shall be conducted; provided, that when any property is held in trust by any such agricultural society or association, such property held in trust shall be sold separately from any that may be held in fee. The commissioner shall make a report of sale to the court, which, after such notice as it may deem proper, shall proceed to hear the same, and if it finds that the sale was fairly conducted, and the price bid was proportionate to the value of the land sold, it shall make and enter a decree confirming the sale, and directing the commissioner to execute a deed to the purchaser. The deed executed by said commissioner, under and in pursuance of the decree of the court, shall be valid and effectual to convey to the purchaser an absolute title in fee simple to the premises; provided, however, that before the filing of any such complaint in the superior or any other court, it shall be necessary for such agricultural society, or any person or corporation claiming the title to such land, to prepare, sign, and properly acknowledge a good and sufficient deed or deeds sufficient to vest in the state all title, interest, or claim which such society may have in and to any land to be affected by the proceedings hereby au-



thorized to be instituted; such deed or deeds to be conditioned that the title, claim, or interest of such society embraced in such deed or deeds shall be held by the state of California in trust for the benefit of such society; which said deed or deeds shall be deposited with the state treasurer, to be by him held in escrow pending the final conclusion of such proceedings in such court. If the court in which such proceedings are had shall order such land to be sold, as herein provided for, the state treasurer shall forthwith file such deed or deeds with the county recorder of the county, or city and county, in which such land is located. If there be any liens upon or claims against the property, the court shall order them paid out of the proceeds of sale. The residue remaining, after paying the costs and expenses of sale and such liens and claims against the property as the court may order paid, shall be paid into the state treasury, where it shall remain until required for the purchase of other property for the use of such society or association, upon the order of the state controller; and it shall be drawn therefrom only upon authorization passed by the board of directors or trustees of such society or association, by and with the approval of the state board of examiners, and upon warrants duly drawn by the state controller. If, through any defect in the proceedings, or otherwise, the title should not pass, the state will indemnify the purchaser by repaying to him the amount paid by him; provided, such purchaser or purchasers shall file their claim or claims for the repayment of such purchase price with the state board of examiners within five years after the payment of such purchase price to the state treasurer in the first instance. The surplus of proceeds of sale, paid into the state treasury, shall be drawn out on certificate, signed by a majority of the directors, or governing body of such society or association, and also of the state board of examiners, stating that it is desired for the payment for other property for the use of such agricultural society; and upon receipt of such certificate, the treasurer shall pay to the said directors, or governing body, or person designated by them, such part of such surplus as may be required for the purchase of other property. It is expressly

provided that in no event shall the state be liable for the payment of any expense, interest, or attorneys' fees, incurred by any one, on any account, by or on behalf of any such agricultural society in their behalf; and it shall be incumbent on such society to make provision for the payment of the expenses, costs, attorneys' fees, and any interest that may be necessary to be paid any purchaser, by reason of repayment of any purchase money on account of failure of title to such lands; such provision for the payment of expenses, attorneys' fees, costs, and anticipated interest to be provided for prior to the issue of any summons, or order of publication in any action contemplated by this act.

Sec. 2. This act shall take effect immediately from and after its passage.

An act entitled an act to form agricultural districts, to provide for formation of agricultural associations therein, and for the management and control of the same by the state, and to repeal all acts and parts of acts in conflict with this act.

[Stat. approved March 31, 1897; Stats. 1897, chap. cccxv.]

Section 1. The several counties of this state are divided and classified into agricultural districts, and numbered as follows, to-wit:

The counties of San Francisco and Alameda shall constitute agricultural district No. 1.

The county of San Joaquin shall constitute agricultural district No. 2.

The county of Butte shall constitute agricultural district No. 3.

The counties of Sonoma and Marin shall constitute agricultural district No. 4.

The counties of San Mateo and Santa Clara shall constitute agricultural district No. 5.

The county of Los Angeles shall constitute agricultural district No. 6.

The county of Monterey shall constitute agricultural district No. 7.

The County of El Dorado shall constitute agricultural district No. 8.

The county of Humboldt shall constitute agricultural district No. 9.

The county of Siskiyou shall constitute agricultural district No. 10.

The counties of Plumas and Sierra shall constitute agricultural district No. 11; provided, that the first fair held in the eleventh agricultural district after the passage of this act shall be held in Sierra county; the next fair in Plumas county, and thereafter said counties shall so alternate in holding such fairs.

The counties of Lake and Mendocino shall constitute agricultural district No. 12.

The counties of Sutter and Yuba shall constitute agricultural district No. 13.

The county of Santa Cruz shall constitute agricultural district No. 14.

The county of Kern shall constitute agricultural district No. 15.

The county of San Luis Obispo shall constitute agricultural district No. 16.

The county of Nevada shall constitute agricultural district No. 17.

The counties of Mono, Inyo, and Alpine shall constitute agricultural district No. 18.

All that portion of Santa Barbara county lying east of the Gaviota and south of the Santa Ynez mountains, shall constitute agricultural district No. 19.

The county of Placer shall constitute agricultural district No. 20.

The counties of Fresno and Madera shall constitute agricultural district No. 21.

The county of San Diego shall constitute agricultural district No. 22.

The county of Contra Costa shall constitute agricultural district No. 23.

The counties of Tulare and Kings shall constitute agricultural district No. 24.

The county of Napa shall constitute agricultural district No. 25.

The county of Amador shall constitute agricultural district No. 26.

The counties of Shasta and Trinity shall constitute agricultural district No. 27.

The counties of San Bernardino and Riverside shall constitute agricultural district No. 28.

The county of Tuolumne shall constitute agricultural district No. 29.

The county of Tehama shall constitute agricultural district No. 30.

The county of Ventura shall constitute agricultural district No. 31.

The county of Orange shall constitute agricultural district No. 32.

The county of San Benito shall constitute agricultural district No. 33.

The county of Modoc shall constitute agricultural district No. 34.

The counties of Merced and Mariposa shall constitute agricultural district No. 35.

The county of Solano shall constitute agricultural district No. 36.

All that portion of Santa Barbara county not included in agricultural district No. 19 shall constitute agricultural district No. 37.

The county of Stanislaus shall constitute agricultural district No. 38.

The county of Calaveras shall constitute agricultural district No. 39.

The county of Yolo shall constitute agricultural district No. 40.

The county of Del Norte shall constitute agricultural district No. 41.

The county of Glenn shall constitute agricultural district No. 42.

The county of Lassen shall constitute agricultural district No. 43.

The county of Colusa shall constitute agricultural district No. 44.

Sec. 2. Where two or more counties shall constitute an agricultural district, each county shall be represented in the district board of directors by at least two resident citizens, as directors in said board; provided, that when by reason of the formation of a new agricultural district, a director of one district becomes a resident of another, his term of office as director will expire in sixty days after the formation of the new agricultural district. Whenever the board of directors of two or more agricultural districts shall, by a majority vote of each board, elect to unite, the said several districts may associate as one district, and hold a fair in any of said districts, and may for such purpose draw the appropriation for all of said districts, and expend the same for said fair.

Sec. 3. Any fifty or more persons, representing a majority of the counties within any one of the districts above constituted, may form an association, for the improvement of the material industries within such district, and when so formed, the association shall be known and designated by the name of ——— Agricultural Association, and by such name and style shall have perpetual succession, and shall have power and authority to contract and be contracted with, to sue and be sued, to have and use a common seal, to purchase and hold and lease real estate, with such buildings and improvements as may be erected thereon, and may sell and lease and dispose of the same at pleasure. The said real estate, except as hereinafter provided, shall be used by such association for the purpose of holding exhibitions of horses, cattle, and other stock, and of the agricultural, horticultural, viticultural, mechanical, manufacturing, and domestic products of such district, with a view to the improvement of all industries in the same. But the said association shall have the power, and are hereby authorized, to sell and convey any portion of the real estate held by it, by whatever title derived, which may not be necessary for the permanent use of said association for the purposes aforesaid.

Sec. 4. The officers of such association shall consist of eight directors, who shall constitute a district board of agriculture for district number ———; a president, who shall be one of their number, and a secretary and treasurer, not of their number.

Sec. 5. Within ten days after the formation of any new agricultural association within any of the districts above constituted in accordance with the provisions of this act, and notice of such formation to the governor, the governor shall appoint eight resident citizens of such district as members of a district board of agriculture for said district, whose term of office shall be four years, except as hereinafter provided.

Sec. 6. Within ten days after their appointment, the persons so appointed shall qualify as required by the constitution, and shall meet at a place within the district and organize by the election of one of their number as president of the

board and association, who shall hold said office of president one year, and until his successor is elected; they shall also elect a secretary and treasurer.

Sec. 7. At the same meeting the members of the board shall, by lot or otherwise, classify themselves into four classes of two members each. The term of office of the first class shall expire at the end of the first fiscal year; of the second class, of the second fiscal year; of the third class, of the third fiscal year; and of the fourth class, at the end of the full term of four years. The fiscal year shall be from December first to December first; provided, that all officers of agricultural districts now in office, under any law heretofore passed, shall hold office for the term for which they were appointed, except in cases specified in section two of this act. And the agricultural associations heretofore established shall be continued in force, and, so far as applicable, are made agricultural associations under this act.

Sec. 8. Each association so formed and organized is hereby declared, and shall be recognized, a state institution, and the board so appointed and qualified shall have the exclusive control and management of such institution, for and in the name of the state, and shall have possession and care of all the property of the association, and shall fix the terms of office and the bonds of the secretary and treasurer, and determine their salaries and duties. They shall have the power to make all necessary by-laws, rules, and regulations for the government of the association and the management of its prudential and financial affairs. They shall provide for an annual fair or exhibition by the association of all the industries and industrial products in the district, at such time and place as they deem advisable; provided, that the state shall, in no event, be liable for any premium offered or award made, or for any debt contracted by any district board of agriculture, or agricultural association; and provided further, that nothing in this section shall be so construed as in any way to affect or modify any of the provisions of section eleven.

Sec. 9. When any district board of agriculture shall have been classified and organized as here-



in provided, the secretary of the board shall report such classification and organization to the state board of agriculture. He shall also report the same to the governor, and shall report any vacancy that may occur in the board to the governor, who shall fill the same, by appointment, for the unexpired term.

It shall be the duty of each district association formed under this act, to report to the state board of agriculture, on or before January first of each year, a detailed financial statement, together with a complete statistical review of the agricultural resources of each county in the district, for the year ending December thirty-first. Said review to contain the acreage and yield of all agricultural productions for the year previous, and such other data as may be asked for by the state board of agriculture in the furtherance of its duties.

Sec. 10. Whenever any such association shall desire to sell any portion of its real estate not needed for the permanent use of the association, for the purposes specified in section three, and such real estate be held by such association under a deed or deeds of trust conveying the said lands in trust, to be held in perpetuity as a place for holding agricultural exhibitions or fairs, or for other permanent purposes of such association, it shall be lawful for such association to file its complaint in the superior court of the county in which such lands are situated, setting forth the nature of the title under which they are held, and that it is the desire of the said association to sell and dispose of such real estate, and praying for judgment authorizing it to sell and convey the same. In such action the trustee or trustees in such deed or deeds, or the survivor or survivors of them, or the heirs, or administrators, or executors of deceased trustees, as the case may require, shall be made parties defendant; and upon service of the summons upon such defendants, personally or by publication, or upon their appearance, the court shall have full jurisdiction in the premises, and the deed executed under and in pursuance of the judgment of the court shall be valid and effectual to convey to the purchaser the title of said association, and that of all of its predecessors in title made parties to the suit.

Sec. 11. Every such association organized and existing under the laws of the state, and which has heretofore issued certificates of the capital stock of such association, and which certificates last mentioned have been accepted by the members of such association in lieu of certificates of membership therein, may elect to have a capital stock, and may issue certificates of stock therefor, in the same manner and with like effect as corporations formed under the provisions of chapter one, article one, of the Civil Code, relating to the formation of corporations. In order to effect such change, a meeting of the holders of such alleged certificates of capital stock may be called, at which the holders of such alleged stock shall be entitled to one vote for each share of such stock appearing in their names, respectively, upon the books of such association. Upon the receipt of a written application, signed by the holders of one-fourth of the shares of such alleged capital stock of such association, requesting him so to do, the secretary of such association shall give notice of the time and place of holding such meeting, by publication in some newspaper printed and published in such county, or city and county, in which the principal place of business of such association is located, at least once a week for three successive weeks next prior to the holding thereof. Such notice shall state that the object of the meeting is, (1) to determine whether such corporation elects to have a capital stock as provided by this act; (2) the amount of such capital stock, and (3) the number of shares into which the same shall be divided. At such meeting, should the holders of a majority of the shares of such alleged capital stock vote in favor of having a capital stock, and fix the amount thereof, and the number of shares into which it shall be divided, then such corporation shall issue certificates of capital stock to the amount fixed at such meeting, divided into the number of shares provided by said meeting, to the holders of such alleged capital stock, in the same proportion as such alleged stock appears in the names of such holders, respectively, upon the books of such association. A copy of the notice calling such meeting, the affidavit of publication thereof, the proceedings of such meeting, the



amount of capital stock voted, number of shares into which the capital stock was divided, and to whom assigned, duly certified by the chairman of such meeting, and the secretary of such association, under the seal thereof, must be filed with the secretary of state and the clerk of the county where such association has its principal place of business. Thereafter such association shall be possessed of all rights and powers, and shall be subject to all the obligations and restrictions, as if it had been originally created a corporation with a capital stock, including the right to elect a board of directors authorized to exercise such control of all the property of such association, as provided in chapters one, two, three, and four of the civil Code, relating to corporations; provided, such association shall have no authority to sell any portion of the real estate owned and held by it, by whatever title derived, which may be necessary for the permanent use of such association, for the purposes aforesaid; and provided further, that in the event that such association, after the issuance of a capital stock as aforesaid, shall be offered aid at any time from the state by appropriation, for the purpose of holding an annual district fair, and such association, by a vote of the board of directors, elected as hereinafter provided, adopts a resolution accepting such appropriation, then and in that event said annual fair shall be held under the control and management of the district board of agriculture of such district; but said district board of agriculture shall have no other authority, control, or management of or over the property of such association, and the authority which it may exercise over said property shall continue only during the time occupied in holding the said district fair, which time shall not extend over more than one week annually.

When any corporation has elected to issue capital stock under this act, the president thereof shall, within ten days after filing with the secretary of state of the certificate hereinbefore provided, call a meeting of the stockholders of such corporation, for the purpose of electing a board of directors of such corporation, which board of directors shall hold their office until their successors are elected and qualified, and thereafter a board

of directors of such corporation shall be elected annually, on the day of the month upon which the election of said first board of directors elected as aforesaid is held, unless a different day for holding such election is fixed by the board of directors of such corporation, by its by-laws, properly adopted.

Sec. 12. All acts or parts of acts in conflict with this act are hereby repealed.

Sec. 13. This act shall take effect from and after its passage.

Prior acts on this subject will be found in acts of 1880, p. 62; 1887, p. 80; 1889, p. 78; 1893, p. 282; 1891, p. 138; 1895, pp. 14, 75, and 100.

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## TITLE 6.

### ALAMEDA COUNTY.

For a reference to special and local acts relating to Alameda county, see Deering's Annotated Penal Code, p. 421, et seq.

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## TITLE 7.

### ALIENS.

An Act relating to the appointment of aliens to positions under State, county, city and county, city, or town officials.

Aliens not to be appointed deputies or clerks.

Section 1. No person shall be employed as a deputy or clerk in any public office of the State, or of any county or municipality therein, who is not a citizen of the United States.

Sec. 2. This Act shall take effect immediately. [Approved April 3, 1880; 1880, 23 (Ban. ed 116).]

An Act to prohibit the issuance of licenses to aliens not eligible to become electors of the State of California.

Licenses prohibited to aliens not eligible to become electors.

Section 1. No license to transact any business or occupation shall be granted or issued by the State, or any county, or city, or city and county, or town, or any municipality corporation, to any alien not eligible to become an elector of this State.

Misdemeanor.

Sec. 2. A violation of the provisions of section one of this Act shall be deemed a misdemeanor, and be punished accordingly. [Approved April 12, 1880; 1880, 39 (Ban. ed. 192).]

This Act was declared unconstitutional in *People v. Quong On Long*, 6 Pac. Coast Law Journal, 116.

An Act to provide for indexing the names of persons who have declared their intention to become or who have become citizens of the United States, in the several courts of record in this State.

[Approved February 8, 1872; Statutes 1871-2, p. 80.]

This act imposed the duty prescribed upon courts of record and allowed a fee for the service.

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## TITLE 8.

### ALPINE COUNTY.

For a reference to special and local acts relating to Alpine county, see Deering's Penal Code, p. 421.

## TITLE 9.

## AMADOR COUNTY.

For a reference to special and local acts relating to Amador county, see Deering's Annotated Penal Code, p. 424, et seq.

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## TITLE 10.

## ANIMALS.

See Cruelty to Animals, post. Estrays, post.

An act to encourage the destruction of wild animals in the different counties of the state, and authorizing the board of supervisors of each of said counties to fix and determine the bounty for the destruction of the same.

[Approved March 15, 1883; 1883, 368.]

Destruction bounty.

Section 1. It shall be lawful for the board of supervisors of each county in the state, in its discretion, to fix and determine the bounty, and such bounties shall be paid out of the general county fund, to be paid for the destruction of each coyote, wild-cat, fox, lynx, bear, or lion, and to prescribe rules for making proof of such destruction, and obtaining such bounty.

Sec. 2. This act shall take effect and be in force from and after its passage.

An act to regulate the disposition of the hides of cattle killed or slaughtered in the state of California.

[Approved March 23, 1893; Stats. 1893, p. 235.]

Section 1. Any person or persons who shall at any time kill or slaughter, or who shall cause to be killed or slaughtered, any cattle, either for his

or their own use and consumption, or for sale, shall retain, or cause to be retained, in their possession, the hides taken off said animals, with the ear-marks attached thereto, without any alteration or disfiguration of the brands or marks on said hide or ears, for the period of ten days.

Sec. 2. Any justice of the peace, constable, owner of cattle, or any other person, may, within the period of time mentioned in the first section of this act, demand an exhibit of the hide or hides of any cattle so killed or slaughtered (as herein provided) by the person so killing or slaughtering the same, or by any other person for whose use or benefit said animal was killed; and upon such demand being made, he or they shall produce the same for the inspection of said justice of the peace, constable, owner of cattle, or any other person.

Sec. 3. Any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty dollars nor more than one hundred dollars, or be imprisoned in the county jail for any term not less than ten days nor more than ninety days, or by both such fine and imprisonment.

Sec. 4. This act shall take effect and be in force from and after its passage.

For other acts relating to, see Civil Code, appendix, title Animals, p. 705, et seq.; Penal Code, appendix, title Animals, p. 506, et seq.

## APIARIES.

See Bee-Culture.

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## TITLE 11.

## APPEALS.

Acts relating to, see Code of Civil Procedure, appendix, title Appeals, p. 787.

## TITLE 12.

## APPRENTICES.

Acts relating to, see Civil Code, appendix, title Apprentices, p. 708, et. seq.

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## TITLE 13.

## ARBITRATION.

An act to provide for a state board of arbitration for the settlement of differences between employers and employees, to define the duties of said board, and to appropriate the sum of twenty-five hundred dollars therefor.

[Approved March 10, 1891; Stats. 1891, p. 49.]

Section 1. On or before the first day of May of each year, the governor of the state shall appoint three competent persons to serve as a state board of arbitration and conciliation. One shall represent the employers of labor, one shall represent labor employees, and the third member shall represent neither, and shall be chairman of the board. They shall hold office for one year and until their successors are appointed and qualified. If a vacancy occurs, as soon as possible thereafter the governor shall appoint some one to serve the unexpired term; provided, however, that when the parties to any controversy or difference, as provided in section two of this act, do not desire to submit their controversy to the state board, they may by agreement each choose one person, and the two shall choose a third, who shall be chairman and umpire, and the three shall constitute a board of arbitration and conciliation for the special controversy submitted to it, and shall for that purpose have the same powers as the state board. The members of the said board or boards, before entering upon the duties of their office, shall be sworn to faithfully discharge the duties thereof. They shall adopt such rules of procedure

as they may deem best to carry out the provisions of this act.

Sec. 2. Whenever any controversy or difference exists between an employer, whether an individual, copartnership, or corporation, which, if not arbitrated, would involve a strike or lockout, and his employees, the board shall, upon application, as hereinafter provided, and as soon as practicable thereafter, visit, if necessary, the locality of the dispute and make careful inquiry into the cause thereof, hear all persons interested therein who may come before them, advise the respective parties what, if anything, ought to be done or submitted to by either, or both, to adjust said dispute and make a written decision thereof. This decision shall at once be made public, and shall be recorded upon proper books of record to be kept by the board.

Sec. 3. Said application shall be signed by said employer, or by a majority of his employees in the department of the business in which the controversy or difference exists, or their duly authorized agent, or by both parties, and shall contain a concise statement of the grievances complained of, and a promise to continue on in business or at work, without any lockout or strike, until the decision of said board, which must, if possible, be made within three weeks of the date of filing the application. Immediately upon receipt of said application, the chairman of said board shall cause public notice to be given of the time and place for hearing. Should the petitioners fail to keep the promise made therein, the board shall proceed no further inereupon without the written consent of the adverse party. And the party violating the contract shall pay the extra cost of the board entailed thereby. The board may then reopen the case and proceed to the final arbitration thereof, as provided in section two hereof.

Sec. 4. The decision rendered by the board shall be binding upon the parties who join in the application for six months, or until either party has given the other a written notice of his intention not to be further bound by the conditions thereof after the expiration of sixty days or any time agreed upon by the parties, which agreement



shall be entered as a part of the decision. Said notice may be given to the employees by posting a notice thereof in three conspicuous places in the shop or factory where they work.

Sec. 5. Both employers and employees shall have the right at any time to submit to the board complaints or grievances and ask for an investigation thereof. The board shall decide whether the complaint is entitled to to a public investigation; and if they decide in the affirmative, they shall proceed to hear testimony, after giving notice to all parties concerned, and publish the result of their investigations as soon as possible thereafter.

Sec. 6. The arbitrators hereby created shall be paid five dollars per day for each day of actual service, and also their necessary traveling and other expenses incident to the duties of their office shall be paid out of the state treasury; but the expenses and salaries hereby authorized shall not exceed the sum of twenty-five hundred dollars for the two years.

Sec. 7. The sum of twenty-five hundred dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the expenses of the board for the first two years after its organization.

Sec. 8. This act shall take effect and be in force from and after its passage.

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## TITLE 14.

### ARTESIAN WELLS.

An act to regulate the use of artesian wells and to prevent the waste of subterranean waters in this state.

[Approved March 9, 1878; 1877-8, 195.]

What artesian wells declared nuisances—Misdemeanor.

Section 1. Any artesian well which is not capped, or furnished with such mechanical appliance as will readily and effectively arrest and prevent the flow of water from such well, is hereby



declared to be a public nuisance. The owner, tenant, or occupant of the land upon which such well is situated, who causes, permits, or suffers such public nuisance, or suffers or permits it to remain or continue, is guilty of a misdemeanor.

Same.

Sec. 2. Any person owning, possessing, or occupying any land upon which is situated an artesian well, who causes, suffers, or permits the water to unnecessarily flow from such well, or to go to waste, is guilty of a misdemeanor.

Artesian well defined.

Sec. 3. An artesian well is defined, for the purposes of this act, to be any artificial well, the waters of which will flow continuously over the natural surface of the ground adjacent to such well at any season of the year.

Waste defined.

Sec. 4. Waste is defined, for the purpose of this act to be the causing, suffering, or permitting the waters flowing from such well to run into any river, creek, or other natural watercourse or channel, or into any bay, lake, or pond, or into any street, road, highway, or upon the land of any person other than that of the owner of such well, or upon public lands of the United States or of the state of California, unless it be used thereon for the purposes and in the manner that it may be lawfully used upon the land of the owner of such well; provided, that this section shall not be so construed as to prevent the use of such waters for the proper irrigation of trees standing along or upon any street, road, or highway, or for ornamental ponds or fountains, or the propagation of fish.

Proceedings for misdemeanor.

Sec. 5. Any person violating any of the provisions of this act may be proceeded against for a misdemeanor in any justice's court of the county in which such well is located, and shall, upon conviction, be fined for each offense not less than ten or more than fifty dollars. There shall also, upon conviction had, in addition to such fine, be taxed against such party the cost of prosecution. Such fine and costs may be collected as in other criminal cases, and the justice may also issue an exe-

cution upon the judgment therein rendered, and the same may be enforced and collected as in civil cases.

Duty of supervisors.

Sec. 6. It shall be the duty of the supervisors or road-masters, on complaint of any citizen within their respective districts, and for that purpose may at all proper times enter upon the premises where such well is situated; and it shall be his duty to institute, or cause to be instituted, criminal action for all violations of the provisions of this act, or for all public offenses defined in this act committed within such district.

Repeal.

Sec. 7. An act entitled "An act to regulate the use of artesian wells and to prevent the waste of subterranean waters in Santa Clara and Los Angeles counties," approved March eighteenth, eighteen hundred and seventy-six, and all other acts and parts of acts in conflict with the provisions of this act, are hereby repealed.

Sec. [8.] This act shall not apply to artesian wells in the county of San Bernardino.

Sec. 9. This act shall take effect and be in force on and after the first day of July, A. D. eighteen hundred and seventy-eight.

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## TITLE 15.

### ATTORNEY GENERAL.

Acts relating to, see Political Code, Appendix, title Attorney General, p. 957.

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## TITLE 16.

### AUDITORS.

Act relating to, see Political Code, Appendix, title, Auditors, p. 957.

## TITLE 17.

## BANKS AND BANKING. ✓

An act creating a board of bank commissioners, and prescribing their duties and powers.

[Approved March 30, 1878; 1877-8, 740.]

Commissioners appointed—Who qualified.

Section 1. On or before the fifteenth day of May, A. D. eighteen hundred and seventy-eight, the governor shall appoint three competent persons, one of whom shall be an expert of accounts to be styled bank commissioners, who shall hold office for a period of four years, and until their successors are appointed and qualified, and no two commissioners to be appointed under this act shall be residents of the same county. The persons who are so appointed shall have no official connection with nor be in the employ of any saving bank, or bank, or banking company, or banking society, nor shall they, during their term of office, own or be interested in the stock or other property thereof. Said commissioners shall have their office in the city of San Francisco.

Official bonds.

Sec. 2. The bank commissioners, before entering upon the duties of their office, must each execute an official bond in the sum of twenty thousand dollars, and take the oath of office, all as prescribed by the Political Code for state officers in general.

License to transact business of a savings bank.

Sec. 3. The duties of the Bank Commissioners shall be to prepare and furnish to every savings bank, bank, and banking company, or any other corporation incorporated under the laws of this State, or of any other State or Territory, or foreign country, doing a banking business in this State, applying therefor, a license, in the form to be prescribed by them, authorizing such corporation to use the name and to transact the business of a savings bank, bank, or banking company, until the first day of July next thereafter; to receive and place on file in their office the reports requir-

ed to be made by savings banks, banks, or banking corporations, by this Act; to prepare and furnish, on demand, to all persons, firms, partnerships, corporations, or officers required to make and return statements or reports to said Bank Commissioners by the provisions of this Act, blank forms for such statements or reports as may by law be required of them; to make, on or before the first day of October in each year, a report to the Governor of this State, containing a tabular statement and synopsis of the several reports which have been filed in their office since their last report, and any other proceedings had or done by them under this Act, showing generally the condition of the respective savings, commercial, and other banking corporations or institutions of this State, and such other matters as in their opinion may be of interest to the public, with a detailed statement, verified by their oaths, of all moneys and fees of office received by them during the same period. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Visit and examine banks.

Sec. 4. It shall be the duty of one or more of the Bank Commissioners, as designated by the Commissioners, once in each year, and as often as in their judgment may be deemed necessary, without previous notice, to visit and make, personally, a full examination of each and every corporation mentioned in section three of this Act: to inspect all books, papers, notes, bonds, or evidences of debt of such corporation, and all securities; to ascertain the condition of every such corporation, its solvency, its ability to fulfill its obligations, and, if in their opinion it is deemed necessary, report its condition to the Attorney-General as soon as practicable after such examination. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Power to examine officers.

Sec. 5. Such Commissioners must examine, under oath, any of the officers, agents, and servants of any such corporation, in relation to the affairs and condition of such corporation, and may administer such oath personally; and whoever shall neglect or refuse, after demand and notice thereof,

and without justifiable cause, to appear, or testify under oath, before the said Commissioners in the discharge of their duties, shall be deemed guilty of misdemeanor, and on conviction thereof be punished by a fine not exceeding five thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Insolvent corporations—Commissioner to report.

Sec. 6. If any bank commissioner shall have knowledge of the insolvency or unsafe condition of any corporation mentioned in this act, and shall neglect to report the same, in writing, to the attorney-general, as required by this act, he shall on conviction thereof, be punished by a fine not exceeding ten thousand dollars nor less than five thousand dollars, or by imprisonment in the county jail not less than one year nor more than two years, or by both such fine and imprisonment, and his office shall be declared vacant by the governor, and a successor be appointed for the unexpired term.

Banks must procure license.

Sec. 7. No corporation shall use the name or transact the business of a savings bank, or bank, or banking corporation, without the license provided for by section three of this Act; and any corporation violating this provision shall forfeit the sum of one hundred dollars per day during the continuance of the offense; and any person who enters upon, engages in, or carries on, or in any manner attends to the business or management of a savings bank, or bank, or banking corporation, doing business without such license, whether as manager, principal, agent, officer, employé, or otherwise, shall forfeit the sum of one hundred dollars for every day he so enters upon, engages in, or carries on, or attends to such business; and any violation of this section is also hereby declared to be a misdemeanor. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

License received on what condition.

Sec. 8. No savings bank shall receive the license in this act provided for, unless at least fifty per cent of all its loans shall be secured by first mort-

gage, or other prior lien, upon real estate situate within this state; such loans, at the date when made, hereafter, not to exceed sixty per cent of the market value of the security, except when made for the purpose of facilitating the sale of property owned by the corporation. And it shall be unlawful for any savings and loan society, or savings bank, to purchase, invest, or loan its capital, or the money of its depositors, or any part of either, in mining shares or stocks. Any president or managing officer who knowingly consents to a violation of the above provision shall be deemed guilty of a felony.

Semi-annual reports.

Sec. 9. Any corporation mentioned in section three of this Act, including banks in liquidation or insolvency, shall, whenever required by the Board of Bank Commissioners, make a report in writing to the Commissioners, verified by the oath of its President and its Secretary or Cashier, or its two principal officers. Said report shall show the actual financial condition of the corporation making the report at the close of any past day by the Commissioners specified, by stating:

First—The amount of its capital stock, and the number of shares into which it is divided.

Second—The names of the Directors, and the number of shares of stock held by each.

Third—The total amount actually paid, in money, by stockholders for capital stock, and the total amount of reserve fund, if any.

Fourth—The total amount due to depositors.

Fifth—The total amount and character of any other liabilities it may have.

Sixth—The amount at which the lot and building occupied by the bank for the transaction of its regular business, stands debited on its books, together with the market value of all other real estate held, whether acquired in settlement of loans or otherwise; the amount at which it stands debited on the bank books; in what county situated, and in what name the title is vested, if not in the name of the corporation itself.

Seventh—The amount loaned on real estate, specifying the amount secured on real estate in each county separately; also, specifying the name of the person in whose name the property is held in trust or as security, in case it is held in any



name other than that of the bank, and the instrument creating the security does not of itself disclose the name of the bank.

Eighth—The amount invested in bonds, designating each particular class, and the amount thereof.

Ninth—The amount loaned on stocks and bonds, designating each particular class, and the amount thereof.

Tenth—The amount of money loaned on other securities with a particular designation of each class, and the amount loaned on each.

Eleventh—The actual amount of money on hand or deposited in any other bank or place, with the name of the place where deposited, and the amount in each place.

Twelfth—Any other property held or any amount of money loaned, deposited, invested, or placed, not otherwise herein enumerated, with the place where situate, and the value of such property, and the amounts so loaned, deposited, or placed.

The oaths of the officers to the statements above required shall state that they, and each of them, have a personal knowledge of the matters therein contained, and that they believe every allegation, statement, matter, and thing therein contained is true; and any willfully false statement in the premises shall be perjury, and shall be punished as such. The reports as provided for by this section shall by the Commissioners be required from each and every corporation herein mentioned at least three times in each year, and shall be transmitted to the Commissioners within fifteen days after the receipt from them of a request or requisition therefor. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Penalty.

Sec. 10. Any corporation mentioned in section three of this act, failing to furnish to the Bank Commissioners any report by them required under the provisions of this act, within the time herein specified, shall forfeit the sum of one hundred dollars per day during the time of such default. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Discontinuance of illegal practice.

Sec. 11. If the Bank Commissioners, on exam-

ination of the affairs of any corporation mentioned in section three of this act, shall find that any such corporation has been guilty of violating its charter, the laws of this State, or any of the provisions of this act, or is conducting business in an unsafe manner, they shall, by an order addressed to the corporation so offending, direct discontinuance of such illegal and unsafe practices, and a conformity with the requirements of the law and its charter, and of the provisions of this act. And if such corporation shall refuse or neglect to conform with such requirements before the expiration of the time in the order specified, or if it shall appear to said Commissioners and they shall unanimously decide that it is unsafe for any such corporation to continue to transact business, it shall be the duty of the Commissioners immediately to take such control of such corporation, and all the property and effects thereof, as may be necessary to prevent waste or diversion of assets, and to hold possession of the same until the order of Court hereinafter mentioned, and to immediately notify the Attorney-General of their action; and it is hereby made the duty of the Attorney-General, upon receiving such notification, to immediately commence suit in the proper court against such corporation, and all the Directors or Trustees thereof, to enjoin and prohibit them from the transaction of any further business. If, upon the hearing of the case, the Court shall find that it is unsafe for such corporation to continue business, and that such corporation or institution is insolvent, said Court shall issue the injunction applied for and shall cause the same to be served according to law, and shall order the Commissioners to surrender to the corporation the property thereof in their possession for the purpose of liquidation; or, if the Court shall find that such corporation is solvent, and may safely continue business, it shall dismiss the action and order that the corporation be restored to the possession of its property. The issuance of the injunction hereinabove provided for shall, by operation of law, dissolve any and all attachments levied upon any property of such corporation within one month next preceding the date of the notification by the Commissioners to the Attorney-General as provided for in this section,



and no attachment or execution shall, after the issuance of such injunction and during the process of liquidation hereinafter provided for, be levied upon any property of said corporation, nor shall any lien be created thereon. And if it shall appear to the court at such hearing, or at any time during the liquidation hereinafter provided for, on the petition of one or more of the Bank Commissioners, or any other interested party, that any of the Directors or Trustees, or officers of said corporation have been guilty of fraud, malversation, or criminal carelessness or negligence, and that any of them are not the proper persons to be intrusted with the closing of the affairs and business of such corporation in the interest of the depositors, creditors, and stockholders thereof, the said Court shall cause to be issued in said action and served upon said Directors or Trustees, or officers, or any of them, an order to show cause why they, or any of them, should not be removed from office, which order shall briefly recite the grounds of the application, and shall be returnable at a time to be fixed by the Court; and if on the hearing the Court shall find that such Directors or Trustees, or officers, or any of them, ought to be removed from office, it shall enter its order of removal accordingly, which order shall be final in the premises; and if the Board of Directors or Trustees of the corporation shall neglect, for the period of ten days after such removal, to elect or appoint a successor or successors to the person or persons so removed, then the Court, by an order entered in said cause, shall appoint such successor or successors; and the Court shall also have power in like manner to fill all vacancies occurring in the Board, and to appoint Directors or Trustees in their stead, whenever from any cause there are no directors or trustees, or not a sufficient number thereof to constitute a quorum for the transaction of business; or when from any cause there are no Directors or Trustees, the Court may order an election by the stockholders to be held according to law. Subject to this right of removal and appointment, the Directors or Trustees of all banking corporations in liquidation shall be permitted to continue the management of the affairs of such corporations during the pro-

cess of liquidation, under the direction of the Bank Commissioners, as hereinafter provided. The affairs of every corporation mentioned in this act, which is hereafter forced into liquidation under the provisions of this act, or otherwise goes into liquidation, shall be closed, and the business thereof settled within four years from the time it shall enter into liquidation, unless at the expiration of such time it shall obtain the consent, in writing, from a majority of the Board of Bank Commissioners, to continue in liquidation for a longer period. The Bank Commissioners shall, however, have no power to grant a continuance for such purpose for a longer period than one year at each time, and the affairs of any corporation in process of liquidation at the time of the adoption of this section, as amended, shall be closed within a time to be designated by such Bank Commissioners. Any corporation mentioned herein now in liquidation, or that hereafter goes into liquidation, shall make reports of the condition of its affairs to the Bank Commissioners in the same manner as the solvent banks mentioned in this act, and in addition thereto, shall state the amount of dividends paid, debts collected, and the amounts realized on property sold, if any, since the previous report. The Bank Commissioners shall have the power, and it is hereby made their duty, to examine the condition of every such corporation in liquidation, in the same manner as in the case of solvent banks; and they shall have a general supervision of any such corporation. They shall have the power to limit the number of employés necessary to close up the business of any such corporation, and to also limit the salaries of the same, and shall do all in their power to make such liquidation economical and as expeditious as the interests of the depositors and stockholders will admit. If any officer or employé of any corporation, insolvent or in liquidation, mentioned in this act, shall refuse to comply with the provisions of this section, or disregard or refuse to obey the directions of said Bank Commissioners given in accordance with the provisions of this act, such officer or employé shall be punished by a fine of not exceeding five thousand dollars, or by imprisonment in the county jail for not exceed-

ing one year, or by both such fine and imprisonment, as a Court of competent jurisdiction may determine. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Salaries and traveling expenses of Commissioners.

Sec. 12. The Bank Commissioners shall each receive a salary of three thousand six hundred dollars per annum, and necessary traveling expenses, not to exceed, for the three Commissioners, the sum of three thousand dollars per annum, to be audited by the State Controller and paid by the State Treasurer, in the same manner as the salaries and expenses of other state officers. No person while holding any other office, or engaged in business of any kind requiring his personal attention between the hours of nine A. M. and four P. M., shall serve as Bank Commissioner. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Annual reports, distribution of.

Sec. 13. The bank commissioners shall furnish each member of the legislature with a copy of their annual report, at each session of the legislature, during the first week of the session. [Amendment approved March 10, 1887; Stats. 1887, 90; In effect immediately.]

Secretary and salary.

Sec. 14. The Bank Commissioners shall have power to appoint a Secretary, at a salary of two hundred dollars per month. The said Commissioners shall keep their office open for business from nine o'clock A. M. until four o'clock P. M. every day, except non-judicial days. They shall procure rooms necessary for their office, at a rent not to exceed seventy-five dollars per month. They may also provide stationery, fuel, and other conveniences necessary for the transaction of their duties, not exceeding in the aggregate the sum of five hundred dollars per annum. All expenditures authorized in this section shall be audited and paid in the same manner as the salary of the Commissioners. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Sec. 15. All reports required to be made to the Bank Commissioners by the provisions of this act shall be filed and kept on file by the Bank Com-

missioners, in their office, and shall be open to the inspection of the public during their office hours. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Sec. 16. To pay the salaries and all other necessary expenses of the Commissioners, as provided for by this act, every corporation receiving a license shall pay annually, in advance, to the Commissioners, in gold coin, its share of the amount required to pay such salaries and expenses; the share to be paid by any corporation to be determined by the proportion which its deposits bear to the aggregate deposits of all such corporations receiving licenses, as shown by the latest reports of such corporations to the Commissioners. Said Commissioners shall, on demand made therefor, and without charge, furnish to every corporation, society, association, company, institution, firm, person, or persons mentioned in this act, copies of papers, statements, and reports filed in their office, and may, as provided by this act, recover any and all moneys payable to them by any corporation, association, society, company, institution, firm, person, or persons, herein mentioned; and all moneys collected or received by such Bank Commissioners, or either of them, under or by virtue of the provisions herein, shall be by them delivered to the Treasurer of this State, who shall pay the same into a fund which is hereby created, and which shall be known as the "Bank Commissioners' Fund." And the unexpended balances of all moneys heretofore paid into the State Treasury by said Bank Commissioners shall be transferred to said fund and become a part thereof. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Commissioners to keep books.

Sec. 17. The Bank Commissioners shall keep proper books of record of all acts, matters, and things done by them under the provisions of this act, which shall be open to the inspection of the public during their office hours.

Subpoenas to be issued.

Sec. 18. The Bank Commissioners may issue subpoenas for witnesses to attend and testify before them, on any examination by this act au-

thorized, which must be served, obeyed, and enforced as provided in the Code of Civil Procedure for civil cases; the Commissioners to issue attachments, and impose the penalty for disobedience, and the witnesses may be punished as provided in the Penal Code.

Commissioners to receive money.

Sec. 19. The Bank Commissioners may sue for and recover, in the name of the people, in any court of competent jurisdiction, all sums of money which become due, payable, or forfeited by any of the provisions of this act.

Commissioners to deliver property.

Sec. 20. The Commissioners shall, upon the expiration of their term of office, deliver to their successors, or if there be none, then to the controller of state, all property, books, reports, and papers of every description pertaining to their office.

Sec. 21. All acts are hereby repealed in so far as they are inconsistent with the provisions of this act.

Sec. 22. This act shall take effect and be in force from and after the fifteenth of May, A. D., eighteen hundred and seventy-eight.

True names of persons engaged in banking business not incorporated.

Sec. 23. Every person, or number of persons, not being incorporated, engaged in the business of banking, or publicly receiving money on deposit, shall conduct such business under a name which shall show the true names of all persons engaged in said business, unless such person or persons have complied with or shall forthwith comply with the provisions of article seven, of chapter two, title ten, part four, division third, of the Civil Code of this State. Every person engaged for himself, or any person being the cashier, manager, or agent of two or more persons, not incorporated, engaged in the business of banking, or publicly receiving money on deposit, must, three times in each year, or oftener, as may be required by the Board of Bank Commissioners, make a report, in writing, to the Commissioners, verified under oath, which report shall show the actual financial condition of the said business on any past day by the

Commissioners specified, and shall also state the facts required to be stated by incorporated banks or banking corporations in section nine of this act, so far as the same appertain to said business. Such reports shall be transmitted to the Commissioners within fifteen days after the receipt from the Commissioners of a request or requisition therefor. Every person violating any of the provisions of this section is guilty of a misdemeanor, and is punishable by imprisonment in the county jail for not less than ninety days nor more than six months, or by fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment. [Amendment approved March 26, 1895; Stats. 1895, chap. clxvii.]

Sec. 24. No savings bank, or bank, or banking corporation, shall be incorporated in this State and conduct such banking business in a city or town of five thousand inhabitants or under with a capital stock of less than twenty-five thousand dollars, or in a city or town of over five thousand and not exceeding ten thousand inhabitants with a capital stock of less than fifty thousand dollars, or in a city or town of over ten thousand and not exceeding twenty-five thousand inhabitants with a capital stock of less than one hundred thousand dollars, or in a city or town of over twenty-five thousand inhabitants with a capital stock of less than two hundred thousand dollars. Before the Secretary of State issues to any corporation that proposes to do a banking business his certificate of the filing of the articles of incorporation, there must be filed in his office the affidavit of the persons named in said articles as the first Directors of the corporation, that all the capital stock has been actually and in good faith subscribed, and at least fifty per centum thereof paid, in lawful money of the United States, to a person in such affidavit named, for the benefit of the corporation. The remainder of the capital stock must be paid in within two years after said banking corporation receives from the Commissioners its first license to transact business, and if not so paid, no further license shall be issued to it; provided, however, that the provisions of this section shall not apply to corporations now in existence. [New sec-



tion approved March 26, 1895; Stats. 1895, chap. clxvii.]

Sec. 25. The directors of any savings bank, bank, or banking corporation having a capital stock, may semi-annually declare a dividend of so much of the net profits of the stockholders as they shall judge expedient; but every such corporation shall, before the declaration of such dividend, carry at least one-tenth (1-10) part of the net profits of the stockholders for the preceding half year to its surplus or reserve fund until the same shall amount to twenty-five per centum of its paid-up capital stock. But the whole, or any part of such surplus or reserve fund, if held as the exclusive property of stockholders, may at any time be converted into paid-up capital stock, in which event such surplus or reserve fund shall be restored in manner as above provided until it amounts to twenty-five per centum of the aggregate paid-up capital stock. A larger surplus or reserve fund may be created, and nothing herein contained shall be construed as prohibitory thereof. [New section approved March 26, 1895; Stats. 1895, chap. clxvii.]

Sec. 26. The use of the word bank, or any other word or terms denoting or implying the conduct of the business of banking, or the use of the word savings, alone or in connection with other words denoting or implying the conduct of the business of a savings institution, or a savings and loan society, is hereby prohibited to all persons, firms, associations, companies, or corporations other than those subject to the supervision of the Bank Commissioners or required by this act to report to them; and no license as in this act provided shall be issued by the Commissioners to any corporation that does not receive money from the public as deposits in manner customary with commercial or savings banks. Any person, firm, association, company, or corporation not subject to the supervision of the Bank Commissioners or not required by this act to report to them, making use of terms implying conduct of a bank, savings bank, or savings and loan society, by means of signs, advertisements, letter heads, bill heads, blank notes, blank receipts, certificates, circulars, or any written or printed, or partly written and partly print-

ed, paper whatever, having thereon any artificial or corporate name or other word or words indicating that such business is the business of a bank, savings bank, or savings and loan society, shall forfeit for each day the offense is continued the sum of one hundred dollars, to be recovered as provided in this act. [New section approved March 26, 1895; Stats. 1895, chap. clxvii.]

Sec. 27. No banker, nor officer of any bank or corporation doing a banking business, shall advertise in any manner, or publish any statement of the capital stock authorized or subscribed, unless he advertise and publish in connection therewith the amount of capital actually paid up. Any officer, or the officers of any bank or corporation doing a banking business, advertising in any manner, or publishing a statement of the capital stock of such bank or banking corporation, authorized or subscribed, without the statement in connection therewith of the stock actually paid up, shall be guilty of a misdemeanor. [New section approved March 26, 1895; Stats. 1895, chap. clxvii.]

For other acts relating to banks see Civil Code, Appendix, title Banks and Banking, p. 715 et seq.

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## TITLE 18.

### BEE-CULTURE.

An Act to authorize the boards of supervisors of the several counties of this state to appoint inspectors of apiaries and provide for their compensation, and defining their duties, and for the further protection of bee-culture.

[Approved March 13, 1883; 1883, 285.]

The nature of the act appears from its title.

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## TITLE 19.

### BENEFIT SOCIETIES.

Acts relating to, see Civil Code, Appendix, title Benefit Societies, p. 723.



## BLIND.

See Home of Adult Blind; Medicine.

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## TITLE 20.

## BLUE BOOK.

Acts to provide for the publication of the state blue-book or roster, approved March 23, 1893; Stats. 1893, p. 218; and approved March 31, 1891; Stats. 1891, p. 454.

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## TITLE 21.

## BOARD OF EXAMINERS.

Acts relating to, see Political Code, Appendix, title Board of Examiners.

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## TITLE 22.

BOARDS OF FREEHOLDERS. *Re Pol 138*

An act in relation to elections held under the authority of section eight, of article eleven, of the Constitution, to elect boards of freeholders, or to vote upon proposed charters or upon amendments to existing charters.

[Stat. approved March 31, 1897; Stats. 1897, chap. exci.]

Consult the statutes of 1897 for the act.

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## TITLE 23.

## BONDS.

Acts relating to: See Civil Code, Appendix, title, Bonds, p. 725; Code of Civil Procedure, Appendix, title, Bonds, p. 788.

Gen. Laws—4

An Act to provide for funding the indebtedness of counties in certain cases.

Outstanding indebtedness of counties.

Section 1. Whenever any county shall have had, at twelve o'clock, meridian, on the first day of January, eighteen hundred and eighty, an outstanding indebtedness, evidenced by bonds or warrants thereof, theretofore legally issued, and such indebtedness, or any part thereof, shall have been thereafter paid in accordance with the laws in force at the time such bonds or warrants were issued, out of the income and revenue received by such county since that date, and such county shall have, since that date, incurred an indebtedness, evidenced by warrants thereof, which indebtedness shall not have exceeded in any year the income and revenue provided for such county for such year, and which warrants shall not have been paid by reason solely of such application of the current revenue of such county to the payment of such former indebtedness, the board of supervisors of such county, by a vote of two-thirds of all the members thereof, are empowered, if they deem it for the public interest, to fund such last-mentioned indebtedness, and to issue bonds of such county therefor in the manner provided in subdivision fourteen of section twenty-five of an Act entitled "An Act to establish a uniform system of county and township governments," approved March fourteenth, eighteen hundred and eighty-three; and all the provisions of said subdivision of said section shall apply to the issuance, disposal and payment of such bonds, and to the levy of taxes for the redemption of the same, except as herein otherwise provided.

Indebtedness that shall not be funded.

Sec. 2. No indebtedness of such county shall be funded, under the provisions of this Act, which in any year exceeding the income and revenue provided for such county for such year, nor which shall exceed the amount of current revenue which shall have been so applied to the payment of indebtedness outstanding at twelve o'clock, meridian, on the first day of January, eighteen hundred and eighty.

Further recital in bonds.

Sec. 3. Such bonds shall, in addition to the matters required to be stated therein by the provisions of the above-mentioned Act, contain a statement that they are issued under authority of this Act, referring to the same by its title and date of passage.

The manner of exchange of bonds for warrants.

Sec. 4. Such bonds, when issued, may be exchanged by the County Treasurer, under the direction of the board of supervisors, only for warrants of such county legally issued since twelve o'clock, meridian, on the first day of January, eighteen hundred and eighty, which, together with warrants theretofore issued, did not in any year exceed the income and revenue provided for such county for such year, and which shall remain unpaid solely because the revenue otherwise applicable to the payment of the same shall have been so applied to the payment of such former indebtedness. If any portion of such bonds shall be sold for money, the proceeds thereof shall be applied exclusively to the payments of the warrants mentioned in this section.

Sec. 5. This Act shall take effect immediately.  
[Approved May 8, 1884; 1884, 8.]

An Act providing for the destruction of municipal bonds of municipal corporations where the same have been executed and remain unsold.

Section 1. Whenever there remain in the possession of any municipal corporations in this State any bonds voted to be issued for municipal purposes, which have been executed but not sold and disposed of, and the sale and disposal of such bonds shall be deemed by the board of trustees or other governing board of such city to have become impossible or inexpedient, and that their destruction is desirable, it shall be lawful for said board to give public notice of its intention publicly to destroy such bonds by a notice published for four successive weeks in the official newspaper of said city, if there be such a paper, and otherwise, in any newspaper published and circulated in said city which may be designated by said board;

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such notice shall specify the time and place of such intended destruction, and the reason alleged therefor, together with a general description of the character and amount of said bonds. And it shall be lawful for said board, at the time and place and in accordance with the terms of said notice, publicly to destroy said bonds unless at least three days prior to said time, written objections to such destruction shall be filed with the clerk of said city, signed by a majority of the legal voters of said city as appears by the vote cast at the last preceding general municipal election.

Sec. 2. No further or other issue of bonds in place of those thus destroyed shall be made by such city, or its board of trustees, or other governing board, unless again authorized by a vote of the people as provided by law.

Sec. 3. This Act shall take effect and be in force from and after its passage. [Stat. approved February 26, 1897; Stats. 1897, chap. xxxvii.]

Special acts fixing the bonds of certain officers are referred to in Deering's Annotated Political Code, under section 4122.

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## TITLE 24.

### BOUNDARY OF STATE.

An act to provide for the correction and establishment of a portion of the eastern boundary line of the state of California, and to appropriate money therefor.

This act was approved February 26, 1889; Stats. 1889, p. 36.

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## TITLE 25.

### BRIDGES.

An Act concerning bridges across navigable streams.

Section 1. The board of supervisors of any county in this State now controlling or maintain-

ing, by virtue of any statute, any bridge across any navigable stream wholly or in part within the boundary lines of any municipal corporation, is hereby authorized and empowered, whenever it may become necessary, in the interest of commerce or by reason of any such bridge being out of repair, to reconstruct and rebuild any part of such bridge, or replace said bridge by a new structure, or with the consent of the governing bodies of such municipalities change the location of such bridge to such place on such stream as may be better suited to its use, or to the use of such navigable stream; and the board of supervisors of any county is hereby authorized to abandon any such existing bridge and rebuild a new bridge at such changed location, and the board of supervisors of any such county so rebuilding and reconstructing said bridge may enter into an agreement with any person or corporation, now maintaining any bridge across any such navigable stream, for the building of a joint bridge for the purpose of preventing the impeding of commerce on such navigable streams, and of apportioning the expense between said county and said person or any corporation, in such manner as may be agreed upon between said county and said person, or corporations.

Sec. 2. The expense of said reconstruction, or the building of a new bridge, to be payable out of the same fund as is now provided by law for the maintenance and repair of any such bridge; provided, that in case said county should make such agreement with said person or corporation for the building of any joint bridge, that only the county's portion of said joint bridge, as may be settled by said agreement, shall be paid from the said funds; and, provided, that in no event shall the county pay more than one half the cost of construction, repair or reconstruction of any such joint bridge.

Sec. 3. All Acts or parts of Acts in conflict herewith are hereby repealed.

Sec. 4. This Act shall take effect from and after its passage. [Stat. approved February 25, 1897; Stats. 1897, chap. xxv.]

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An Act to provide for bridges across navigable streams, and across estuaries, ponds, swamps, or arms of bays that may be outside of the line of navigable waters.

Power of supervisors to erect bridges.

Section 1. The power to erect bridges on public highways across navigable streams in this state, or to grant franchises to individuals, or corporations for the same, is hereby granted to the boards of supervisors of the several counties of the state, under the restrictions of this act.

Regulation of tolls, by whom exercised.

Sec. 2. The power to grant franchises to individuals or corporations to construct bridges, and the regulation of tolls thereon, shall be exercised by the county on the left bank of all streams.

Supervisors may join between counties.

Sec. 3. Where a navigable stream is the boundary line between the counties, the boards of supervisors of such counties may join in the construction of a bridge, upon such terms as may be agreed upon; provided, however, that in case of a failure to agree, either county may build the bridge and maintain control thereof.

Notify state engineer.

Sec. 4. Whenever the supervisors of any county or counties desire to erect a bridge on any public highway, or to grant the privilege so to do to any individual or corporation, across a navigable stream, under the provisions of this act, said board or boards shall notify the state engineer of such purpose, and of the precise point where such bridge is proposed to be located. The state engineer shall, within ten days of the receipt of such notice, designate the width of the draw to be made in such bridge, and also the length of the spans necessary to permit the free flow of water.

Hearing before state engineer.

Sec. 5. The communication from the state engineer, fixing the draw and spans, shall be spread upon the minutes of the board, and any bridge constructed at that point shall be in conformity therewith; provided, however, that the state en-

gineer may, upon hearing before him, had upon application of any person or body interested, made within ten days after the receipt by said board of supervisors of said communication of said engineer, change his first plans, in which case the modified plans must be so spread upon the minutes, and shall stand in the place of the original; provided, however, that before such hearing is had, the said engineer must give ten days' notice by publication in some newspaper published in the county or counties from which the application came, of the time and place of the hearing.

Surveyor-general, when may act.

Sec. 6. In case of the absence or inability of the state engineer to act, the duties devolving upon him under this act shall be performed by the state surveyor-general.

Rates of toll, by whom fixed.

Sec. 7. When a bridge shall be built on a navigable stream, by one county, or two counties, it may be absolutely free, or tolls sufficient to pay in whole, or in part, for the construction, and to keep up the repairs and expenses thereof, may be charged; the rate to be fixed by the board of supervisors of the county in which the same is located, or, if located in two counties, then by the boards of supervisors of the two counties; or if there be any disagreement between said boards, as to imposing or removing tolls, or the rate, the matter in dispute shall be referred to the board of supervisors of some neighboring county for determination, and its decision, communicated in writing to the clerks of said boards respectively, shall be final; and if tolls are fixed or removed thereby, the same shall take effect on the tenth day from the date of such written determination.

Supervisors to declare necessity for building bridges.

Sec. 8. The board of supervisors, or other governing body of any city and county, or county, in this state, shall have power to declare that it is necessary for the public convenience to have a bridge or bridges built across any estuary, swamp, pond, or arm of a bay that may lie or extend into the county, or city and county, and prescribe the points between which said bridge or bridges shall



be built, and when they shall have specified the points between which it is, in their judgment, necessary to build the said bridge or bridges, they may let contracts to build the bridges, as aforesaid, and pay for the same out of the general fund of the city and county, or county.

Sec. 9. This act shall take effect immediately. [Approved March 14, 1881; Stats. 1881, 76.]

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## TITLE 26.

### BUILDING AND LOAN ASSOCIATIONS.

Acts relating to: See Civil Code, Appendix, title, Building and Loan Associations, p. 727.

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## TITLE 27.

### BUOYS AND BEACONS.

Acts relating to: See Penal Code, Appendix, title, Buoys and Beacons, p. 515.

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## TITLE 28.

### BUTTE COUNTY.

For a reference to special acts relating to Butte county, see Deering's Annotated Penal Code, p. 436, et seq.

See also an act to amend the act to incorporate the town of Chico, Stats. 1887, p. 63.

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## TITLE 29.

### BUTTER.

Acts relating to: See Penal Code, Appendix, title, Butter, p. 516.



## TITLE 30.

## CALAVERAS COUNTY.

For a reference to special acts relating to Calaveras county, see Deering's Annotated Penal Code, pp. 438, 439. ✓

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## TITLE 31.

## CALIFORNIA STATUTES, INDEX TO.

An act authorizing the superintendent of state printing to have prepared and printed an index to all the laws of California, 1850-1893.

[Approved March 11, 1893; Stats. 1893, p. 150.] 7.

This act provided for the compiling, printing and distribution of a complete index to the California statutes.

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## TITLE 32.

## CALIFORNIA VOLUNTEERS.

An act to provide for the revision of the records of the California volunteers, to authorize the adjutant general to employ additional clerk or clerks for that purpose, and to authorize the superintendent of state printing to print, bind, and issue the same. 7

[Approved March 16, 1889; 1889, 228.]

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## TITLE 33.

## CEMETERIES.

Acts relating to: See Civil Code, Appendix, title, Cemeteries, p. 736.

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An Act providing for the removal of human remains from cemeteries in cities having a population of more than five thousand and not exceeding one hundred thousand.

1. The City Council of any city in this State having a population of more than fifteen hundred and not exceeding one hundred thousand, may, by ordinance duly passed, and under such lawful rules and regulations which it may adopt, provide for the exhuming, taking up, and removal from cemeteries within the boundary lines of such city, or from cemeteries owned and controlled by such city that may have been located without its boundaries (and in which such cemeteries no interments of human remains have been made for a period of not less than two years), of all the human remains interred in such cemeteries. [Approved March 23, 1893, Stats. 1893, p. 234. Amendment approved March 26, 1895; Stats. 1895, chap. cl.

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An Act to protect public health from infection caused by exhumation and removal of the remains of deceased persons.

Disinterring of bodies unlawful without permit.

Section 1. It shall be unlawful to disinter or exhume from a grave, vault, or other burial place, the body or remains of any deceased person, unless the person or persons so doing shall first obtain, from the board of health, health-officer, mayor, or other head of the municipal government of the city, town, or city and county where the same are deposited, a permit for said purpose. Nor shall such body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be removed or transported in or through the streets or highways of any city, town, or city and county, unless the person or persons removing or transporting such body or remains shall first obtain, from the board of health or health-officer (if such board or officer there be), and from the mayor or other head of the municipal government of the city or town, or city and county, a permit, in writing, so to remove or transport such body or remains in and through such streets and highways.

Permits granted upon what.

Sec. 2. Permits to disinter or exhume the bodies or remains of deceased persons, as in the last section, may be granted, provided the person applying therefor shall produce a certificate from the coroner, the physician who attended such deceased person, or other physician in good standing cognizant of the facts, which certificate shall state the cause of death or disease of which the person died, and also the age and sex of such deceased; provided further, that the body or remains of deceased shall be inclosed in a metallic case or coffin, sealed in such manner as to prevent, as far as practicable, any noxious or offensive odor or effluvia escaping therefrom, and that such case or coffin contains the body or remains of but one person, except where infant children of the same parent or parents, or parent and children, are contained in such case or coffin. And the permit shall contain the above conditions and the words: "Permit to remove and transport the body of ———, age ———, sex ———," and the name, age, and sex shall be written therein. The officer of the municipal government of the city or town, or city and county, granting such permit, shall require to be paid for each permit the sum of ten dollars, to be kept as a separate fund by the treasurer, and which shall be used in defraying expenses of and in respect to such permits, and for the inspection of the metallic cases, coffins, and inclosing boxes herein required; and an account of such moneys shall be embraced in the accounts and statements of the treasurer having the custody thereof.

Misdemeanor.

Sec. 3. Any person or persons who shall disinter, exhume, or remove, or cause to be disinterred, exhumed, or removed, from a grave, vault, or other receptacle or burial place, the body or remains of a deceased person, without a permit therefor, shall be guilty of a misdemeanor and be punished by a fine not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment. Nor shall it be lawful to receive such body, bones, or remains on any vehicle, car, barge,

boat, ship, steamship, steamboat, or vessel for transportation in or from this state, unless the permit to transport the same is first received, and is retained in evidence by the owner, driver, agent, superintendent, or master of the vehicle, car, or vessel.

Transportation of bodies exhumed without permit—Misdemeanor.

Sec. 4. Any person or persons who shall move or transport, or cause to be moved or transported, on or through the streets or highways of any city or town, or city and county, of this state, the body or remains of a deceased person, which shall have been disinterred or exhumed without a permit, as described in section two of this act, shall be guilty of a misdemeanor, and be punishable as provided in section three of this act.

Reward for information.

Sec. 5. Any person who shall give information to secure the conviction of any person or persons for the violation of the provisions of this act shall be entitled to receive the sum of twenty-five dollars, to be paid from the fund collected from fines imposed and accruing under this act.

Removal of remains of deceased persons.

Sec. 6. Nothing in this act contained shall be taken to apply to the removal of the remains of deceased persons from one place of interment to another cemetery or place of interment within this state; provided, that no permit shall be issued for the disinterment or removal of any body, unless such body has been buried for one year or more, without the written consent of the mayor, chairman of the board of supervisors, or city council of any municipality of the state. [Amendment approved March 13, 1889; Stats. 1889, 139. In effect immediately.]

Sec. 7. This act shall take effect and be in force from the thirtieth day after its passage and approval. [Approved April 1, 1878; 1877-8, 1050.]

## TITLE 34.

## CENSUS.

An act to authorize any city, or city and county of this state to take its census.

[Stat. approved February 25, 1897; Stats. 1897, chap. xxx.]

Section 1. The council, or other legislative body of any city in this state, and the board of supervisors, or other legislative body of any city and county of this state, is hereby authorized, whenever said council, board of supervisors, or other legislative body, may deem it necessary, between the years of taking the federal census, to take the census of such city, or city and county, in the manner prescribed by section two of this act.

Sec. 2. Said council, board of supervisors, or other legislative body of any city, or city and county of this state electing to take a census, as in this act provided for, shall pass a resolution of intention declaring its intention to cause such census to be taken by one or more suitable persons appointed therefor by such council, board of supervisors, or other legislative body, at the expense of said city or cities desiring such census taken, and such census shall, by such persons so appointed, be taken of all the inhabitants of such city, or city and county, and in said census the full name of each person shall be plainly written and the names alphabetically arranged and regularly numbered in one complete series, and when completed shall be verified before any officer authorized to administer oaths, and be filed with the clerk of such city, or city and county.

Sec. 3. A certified copy of such census shall be prepared by said clerk after being so filed, and shall be filed by him with the secretary of state for this state, and thereupon the same shall be known and be the official state census of said city, or city and county.

Sec. 4. This act shall take effect and be in force from and after its passage.

## TITLE 35.

## CENTRAL AMERICAN EXHIBITION.

An act for the appointment of a commissioner to represent the state of California at the Central American exhibition to be held in the City of Guatemala, on March 15, 1897, and to prescribe his powers and duties; and to authorize the appointment of a clerk; and to provide for the expenses of said commissioner, and the compensation of said clerk, and for certain expenses of the California exhibit at said exhibition, and to appropriate money therefor.

[Stat. approved February 9, 1897; Stats. 1897, chap. iii.]

The purpose of the act sufficiently appears from the title.

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## TITLE 36.

## CHAMBERS OF COMMERCE.

Acts relating to: See Civil Code, Appendix, title, Chambers of Commerce, p. 737.

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## TITLE 37.

## CHEESE.

An act defining the different grades of cheese and for branding the same, manufactured in the state of California.

[Stat. approved March 4, 1897; Stats. 1897, chap. lxxvi.]

Section 1. Every person or persons, firm or corporation, who shall at any creamery, cheese factory, or private dairy, manufacture cheese in the state of California, shall, at the place of man-

ufacture, brand distinctly, and durably on the bandage of each and every cheese manufactured, and upon the package or box when shipped, the grade of cheese manufactured, as follows: "California Full-Cream Cheese," "California Half-Skim Cheese," and "California Skim Cheese."

Sec. 2. All brands for branding the different grades of cheese shall be procured from the state dairy bureau, and said bureau is hereby directed and authorized to issue to all persons, firms, or corporations, upon application therefor, uniform brands, consecutively numbered, of the different grades specified in section one of this act. The state dairy bureau shall keep a record of each and every brand issued, and the name and location of the manufacturer receiving the same. No manufacturer of cheese in the state of California, other than the one to whom such brand is issued, shall use the same, and in case of a change of location, the party shall notify the bureau of such change.

Sec. 3. The different grades of cheese are hereby defined as follows: Such cheese only as shall have been manufactured from pure milk, and from which no portion of the butter fat has been removed by skimming or other process, and having not less than thirty per cent of butter fat, shall be branded as "California Full-Cream Cheese"; and such cheese only as shall be made from pure milk, and having not less than fifteen per cent of butter fat, shall be branded "California Half-Skim Cheese"; and such cheese only as shall be made from pure skim-milk shall be branded "California Skim Cheese"; provided, that nothing in this section shall be construed to apply to "Edam," "Brickstein," "Pineapple," "Limburger," "Swiss," or hand-made cheese, not made by the ordinary Cheddar process.

Sec. 4. No person or persons, firms or corporations, shall sell, or offer for sale, any cheese, manufactured in the state of California, not branded by an official brand and of the grade defined in section three of this act.

Sec. 5. Whoever shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense by a fine of not less

than twenty-five dollars (\$25) nor more than fifty dollars (\$50), or by imprisonment in the county jail for not exceeding twenty-five days; and for each subsequent offense by a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100), or by imprisonment in the county jail not less than fifty days nor more than one hundred days, or by both such fine and imprisonment, at the discretion of the court.

Sec. 6. All acts or parts of acts inconsistent with this act are hereby repealed.

Sec. 7. This act shall take effect sixty days after its passage.

Act relating to deception in manufacture and sale of: See Penal Code, p. 516.

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## TITLE 38.

### CHICO.

Special acts relating to: See ante, title, Butte county.

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## TITLE 39.

### CHINESE.

A reference to the acts relating to Chinese is contained in Deering's Annotated Penal Code, pp. 439, 440. In addition consult the following act:

An act to prohibit the coming of Chinese persons into the state, whether subjects of the Chinese Empire or otherwise, and to provide for registration and certificates of residence, and determine the status of all Chinese persons now resident of this state, and fixing penalties and punishments for violation of this act, and providing for deportation of criminals.

[Approved March 28, 1891; Stats. 1891, p. 185.]

Section 1. From and after the passage of this act, it shall be unlawful for any Chinese person



or persons, whether subjects of the Chinese Empire or otherwise as well as those who are now within the limits of this state, and who may hereafter leave this state and attempt to return, as those who have never been here, or, having been here, have departed from this state (save and excepting only the following classes, that is to say: Such Chinese person or persons as may be duly accredited to the government of the United States as ministers plenipotentiary, or other diplomatic representatives, consuls-general, consular and commercial agents, including other officers of the Chinese or other governments traveling upon the business of that government, with their body and household servants), to come to or within, or to land at or remain in, any port or place within this state; and the coming of Chinese persons to this state, whether for the purpose of transit only or otherwise, excepting the classes hereinbefore specifically described and excepted, from and after the passage of this act, be and the same is hereby absolutely prohibited.

Sec. 2. The master, purser, or agent of any vessel, who, on clearing from any foreign port and bound to any port of this state, shall knowingly ship as a sailor or marine, or enter upon his crew list, or count upon his "bill of health," or permit the same to be entered or counted, the name of, or bring into this state, any Chinese person, other than those excepted by the statutes of the United States, as such Chinese person or persons, duly accredited to the government of the United States as ministers plenipotentiary, or other representatives, consuls-general, consular and commercial agents, including other officers of the Chinese or other governments traveling upon business of that government, with their body and household servants, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars for each and every such Chinese person so entered, counted, or brought into this state, and may also be imprisoned for a term of not exceeding one year; but the foregoing provisions shall not apply to the case of any master, purser, or agent whose vessel, being bound to a port not within this state, shall come within the jurisdiction of this state

by reason of being in distress, or in stress of weather, or touching at any port of this State on its voyage to any other State, or foreign port or place; provided, that no Chinese person brought on such vessel shall be permitted to land, except in case of absolute necessity, and must depart with the vessel on its leaving port; and if so permitted to land, such master, purser, or agent shall be liable as in this section provided.

Sec. 3. It is hereby made the duty of all agents of transportation, and ticket agents, in this State, for railroad, stage lines, steamship lines, and vessels of all descriptions, and masters and pursers of the same, when applied to by any Chinese person, or by any other person for the passage of a Chinese person, for a ticket as passenger from one station, town, city, port, or landing in this State, to another station, town, city, port, or landing in this State, or to any other State of the United States, and before selling such ticket, to demand of said person applying permission to see, and shall, before selling a ticket, examine the "certificate of residence" of the applicant, as described in this act, and insert the number of said certificate of residence on said ticket; and should such applicant or Chinese person fail to produce such certificate, then the said agent shall not sell a ticket to or permit said Chinese person to take passage, and said agent, master, or purser shall arrest, or cause to be arrested, the said Chinese person or applicant, and proceed to file a complaint with any justice of the peace or police judge, or court having jurisdiction of the same, as in other cases provided for in this act, or turn over such Chinese person or applicant to some peace officer, whose duty it is to enforce the provisions of this act. Any person failing to comply with the requirements of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars for each and every offense, and may be imprisoned for a term of not more than one year.

Sec. 4. It shall be the duty of all conductors or agents of transportation, who may be authorized to examine tickets and receive fare of Chinese persons upon any railroad, stage line, sail vessel,

or steamship plying between points, landings, ports, stations, towns, or cities of this State, or coming into this State from other States of the United States, or any foreign country, to demand at the same time to see and examine the "certificate of residence" described in this act; and should any such Chinese person refuse or fail to produce, on demand, said certificate, conforming in all particulars to the provisions of section (11) eleven of this act, it shall be the duty of said agent, or conductor, master, or purser, to arrest and confine such Chinese person until such time as he shall be able to deliver over such person to some peace officer, or file a complaint against said Chinese person in a court having jurisdiction, as provided for in this act; and should any such agent, ticket agent, conductor, master of vessel, or purser, refuse, or willfully or knowingly neglect to comply with the provisions of this act, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars, and may be imprisoned for a term of not more than one year.

Sec. 5. Any person who shall knowingly bring into or cause to be brought into this state, by land or otherwise, or who shall aid or abet the same, or aid or abet the landing in this State, from any vessel or otherwise, of any Chinese person not lawfully entitled to enter this State, shall be deemed guilty of a felony, and shall on conviction thereof be fined in a sum of not exceeding one thousand dollars, and imprisoned in the State's prison for a term not exceeding one year, and, if a Chinese person, shall be sentenced to deportation as in other cases.

Sec. 6. No Chinese person shall be permitted to enter this State, by land or water, without first producing the certificate in this act required of Chinese persons resident of this State; and any Chinese person found guilty of being unlawfully within this State shall be caused to be removed therefrom, by judgment of court, to China, unless the defendant shall prove that he is a citizen of some foreign country other than China, then to said country of which he is a citizen. The burden of establishing citizenship shall rest upon the defendant. In every case, when established that such Chinese person is not lawfully in this State,

then the judgment of the court shall be deportation to the country of his citizenship at the cost of said person so to be deported; and judgment and fine may be rendered therefor, and if collected, paid unto and credited to the Chinese fund, and if not paid or collected, then, in the first instance, to be paid by this State out of the Chinese fund after being brought before some Superior Court judge of this State, and declared by said judgment to be one not lawfully entitled to be or to remain in this State; provided, that after such judgment and finding of any court having jurisdiction, said court may transmit such findings and judgment to the Governor, who may forward a copy thereof to the Secretary of the Treasury of the United States, or other officer designated by him, and request that such Chinese person shall be removed from the limits of this State at the expense of the United States; and in all such cases the person who brought or aided in bringing such person to this State shall be liable to the government of this State for all necessary expenses incurred in such investigation and removal; and all peace officers of the several counties of this State, including all other persons authorized to make arrests, are hereby invested with the same authority as any sheriff or constable.

Sec. 7. Any Chinese person adjudged guilty of being unlawfully within the jurisdiction of this State, and on conviction thereof, shall be punished by being deported from this State to his or her own country, or by a fine of not less than five hundred dollars nor more than one thousand dollars, and deportation from this State to his or her own country, or by imprisonment in the State prison for a term not less than one nor more than five years, and on termination of said imprisonment shall be deported to China, or such country of which he is a citizen; all the expenses of deportation, upon approval of the State Board of Examiners, shall be drawn from the Chinese fund provided for in this act, and from no other source, when defrayed by the State.

Sec. 8. In all cases where the judgment of deportation, or fine and deportation, or imprisonment and deportation, shall be rendered by any court trying the same, it shall be the duty of

the court to cause to be made a copy of the findings and judgment in the case, attaching to the same a well-taken photograph of the defendant, and also stating such distinctive facial marks, or noticeable physical marks or features, as will at any future time assist in a ready detection and conviction on a second offense, and forward the same to the commissioner of the bureau of labor statistics of this State, for preservation and reference at any future time.

Sec. 9. Within ninety (90) days after the passage of this act, it shall be the duty of the commissioner of the bureau of labor statistics of this State to cause to be published in one daily or weekly newspaper, if any, of general circulation within each county of the State, for the period of one month, once each week, a notice to all Chinese persons within the State, and also post a like notice in a conspicuous place at such postoffices as he may deem proper, written in the Chinese language, directing and commanding all Chinese persons within this State to appear at the office of the commissioner of the bureau of labor statistics within ninety (90) days from the date of the last publication of such notices, and apply for the certificate of residence provided for in this act.

Sec. 10. It shall be the duty of every county clerk to record, in a book kept for that purpose, and with reasonable dispatch, all certificates of residence issued to Chinese persons who may reside in the county, and keep a full record of all such certificates, for future reference and identification, with the photograph of said Chinese person incorporated therein.

Sec. 11. The form of "certificate of residence" shall be printed on parchment of convenient size and durable quality, leaving a blank space in center of first page of sufficient size, on which shall be printed or pasted a well-taken photograph of applicant, including, when possible, all facial marks or other features calculated to aid in a ready identification. The printing surrounding the photograph shall be in clear type, and contain the name, date of birth, place of birth, and country and citizenship; date of departure from such country, date and year of arrival in the United States; at what port landing; age, sex, postoffice address,

number of street, town, city, farm, ranch, county, and State at which he may now reside; family name and tribe, complexion, color, height, weight, and occupation; by whom employed, and postoffice address of employer; if working on own account, at what employment, giving number of street, town, or city, name of farm, ranch, and occupation, and also any particular noticeable facial marks or bodily deformity as may be observed and believed to render ready aid in future identification; and any Chinese person who shall be found within the jurisdiction of this State, unprovided with a certificate of residence of the form above set forth, and bearing the official signature of the commissioner of the bureau of labor statistics of this State, after the expiration of one year from the date of the passage of this act, then and in such case he shall be deemed and adjudged as unlawfully within the limits of this State, and subject to punishment as provided for in this act.

Sec. 12. The county clerk shall cause to be affixed to the "certificate of residence" of every Chinese person presenting the same for record, his official signature and seal and the date of record.

Sec. 13. It shall be the duty of all Chinese persons within the limits of this State at the date of the passage of this act, within one year after the passage of this act to apply for a "certificate of residence" to the commissioner of the bureau of labor statistics, and on obtaining the same to present to and have recorded by the county clerk of the county of residence of such Chinese person his "certificate of residence," as hereinbefore provided; and any Chinese person within the limits of this State who shall fail or refuse to comply with the provisions of this act shall be adjudged by the court before whom he may be tried as being unlawfully within the limits of this State, and subject to the same fines and penalties as in other cases provided for in this act.

Sec. 14. Immediately after the passage of this act, the Secretary of State shall cause to be printed by the State Printer and sent to the clerks of the several counties throughout this State the necessary blank record books, containing blank certificates, provided for herein, in such form as prescribed by this act and the commissioner of the bureau of labor statistics.



Sec. 15. Each Chinese person who shall apply to the commissioner of the bureau of labor statistics for a certificate as required herein shall pay to the said commissioner of the bureau of labor statistics, to be paid into the State Treasury, and credited to the "Chinese fund," the sum of five dollars, which sum, together with cost of photographs and recording and fee of deputy issuing the certificate of residence, shall be the only compensation allowed for registering and issuing certificates to Chinese persons as herein provided; and provided, that the applicant shall pay for or furnish the photograph set forth in section (11) eleven of this act, satisfactory to the commissioner of the bureau of labor statistics.

Sec. 16. Immediately after the passage of this act, the Secretary of State shall cause to be printed by the State Printer, on parchment, and of the size adopted by the commissioner of the bureau of labor statistics, blank copies of the "certificate of residence" referred to in this act, in sufficient quantities to supply the requirements of the commissioner of the bureau of labor statistics in carrying out this act.

Sec. 17. The controller of this State shall open a set of books of account, known as the "Chinese fund account," in books to be provided by the Secretary of State, in which shall be entered all moneys received under this act, the date received, and name of persons paying the same, and for what purpose such money was received, upon itemized statements, rendered on the last day of each month by the commissioner of the bureau of labor statistics, on blank forms furnished by the State for such purpose, and thereupon the commissioner of the bureau of labor statistics shall pay such moneys into the State Treasury to the credit of said Chinese fund.

Sec. 18. The fees collected under the provisions of this act shall be known and set apart by the Treasurer of State as the "Chinese fund," and shall be held and drawn upon solely to defray the expenses incidental to the execution of this act.

Sec. 19. The Governor of this State is authorized and required, at the expiration of one year from the passage of this act, to offer a reward of twenty-five (\$25) dollars to any person or persons, as in-

formants, who shall produce the necessary testimony for the conviction of any Chinese person of a violation of this act; provided, that the same shall be paid from the fund collected under the provisions of this act and known as the "Chinese fund," and from no other moneys belonging to the State; provided, that no such reward shall be allowed when such Chinese persons are deported for violation of other laws of this State or municipal ordinances.

Sec. 20. Whenever any peace officer of this State, or of any county or municipality of the same, shall have good reason to believe that any Chinese person has neglected to provide himself or herself with a certificate of residence provided for in this act, he shall demand of said person permission to see and examine said certificate; and, on failure or refusal of such said person to produce the same, he shall at once report the facts, on oath, to the nearest justice of the peace, or police judge, or judge of any superior court, who shall, if in his judgment good cause is shown, issue his warrant for the arrest of said Chinese person, and proceed to examine or try the defendant upon said charge.

Sec. 21. Whenever it shall appear to any court having jurisdiction of any case under this act, that, upon the testimony, the defendant has failed to provide himself or herself with the certificate as set forth in this act, for cause, or from reasonable circumstances over which he or she had no control, then and in such cases the judgment of the court shall be that such Chinese person shall pay all costs of such investigation, and at that time, without delay, proceed to register and procure a certificate as provided for in this act; and provided further, that should the defendant fail, on demand of the court, to comply with the judgment of the same, under the provisions of this act, then and in such cases the penalty shall be the same as provided for in other cases, and the award to the informant shall be the same as in other cases; provided, that when sufficient excuse is shown for not having registered, and such registration is made, no penalty shall be inflicted except the payment of costs.

Sec. 22. Any person whose race or nationality precludes him from being naturalized under the



laws of the United States, or under the laws of this State, found guilty of a violation of any law of this State, or of any ordinance of a municipality of this State, other than a capital offense, shall be deemed and adjudged as having forfeited all right and privilege to remain within the State, and it shall be the duty of the court trying the cause to pass sentence of deportation as in other cases provided for in this act, to be executed after he shall have satisfied the penalty of fine and imprisonment, or either, for violation of such law of this State, or ordinance of any municipality of the same; provided, that the court trying said cause may, in its discretion, pass such sentence of deportation in the first instance as the only penalty.

Sec. 23. Any person who shall knowingly and falsely alter or substitute any name for the name written in any certificate herein registered, or forge such certificate, or knowingly utter any forged or fraudulent certificate, or falsely personate any person named in any such certificate, and any person other than the one to whom a certificate was issued who shall falsely present any such certificate, shall be deemed guilty of a felony, and upon conviction thereof shall be fined in a sum not exceeding one thousand dollars, and imprisoned in the State penitentiary for a term of not more than five years.

Sec. 24. For the purpose of carrying out the provisions of this act, it is hereby provided,—

Subdivision 1. That the commissioner of the bureau of labor statistics shall have for his services to be rendered in carrying out this act the sum of two thousand (\$2,000) dollars per annum, payable out of the Chinese fund in this act created and provided for.

Subdivision 2. The commissioner of the bureau of labor statistics may, with the concurrence and consent of the Governor, appoint such deputies as may be deemed by them necessary to carry out the provisions of this act, and that such deputies shall receive such compensation as may be fixed by the State Board of Examiners, not to exceed the sum of one dollar for each certificate issued, in full compensation for their services as such deputies, to be charged to the Chinese fund hereinbefore specified.

Subdivision 3. All claims arising out of and inci-  
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dent in carrying out the provisions of this act shall be presented the same as other claims against the State, and audited and passed on by the State Board of Examiners, and paid on warrants drawn by the controller upon the Chinese fund.

Sec. 25. This act shall take effect from and after its passage.

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## TITLE 40.

### CITY AND COUNTY ATTORNEYS.

Acts relating to, see Political Code, Appendix, title City and County Attorneys, p. 958.

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## TITLE 41.

### CIVIL RIGHTS.

An Act to protect all citizens in their civil and legal rights.

[Stat. approved March 13, 1897; Stats. 1897, chap. cviii.]

Section 1. That all citizens within the jurisdiction of this State shall be entitled to the full and equal accommodations, advantages, facilities, and privileges of inns, restaurants, hotels, eating-houses, barber-shops, bath-houses, theaters, skating-rinks, and all other places of public accommodation or amusement, subject only to the conditions and limitations established by law and applicable alike to all citizens.

Sec. 2. Whoever shall violate any of the provisions of the foregoing section, by denying to any citizen, except for reasons applicable alike to every race or color, and regardless of race or color, the full accommodations, advantages, facilities, and privileges in said section enumerated, or by aiding or inciting such denial, or whoever shall make any discrimination, distinction, or restriction on account of color or race, or except for good cause, applicable alike to all citizens of every color or race whatever, in respect to the admission of

any citizen to, or his treatment in, any inn, restaurant, hotel, eating-house, barber-shop, bath-house, theater, skating-rink, or other public place of amusement or accommodation, whether such place be licensed or not, or whoever aids or incites such discrimination, distinction, or restriction, shall, for each and every such offense, shall be liable in damages in an amount not less than fifty dollars, which may be recovered in an action at law brought for that purpose.

Sec. 3. All laws or parts of laws in conflict with this law are hereby repealed.

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## TITLE 42.

### CODES.

The legislation concerning the preparation, taking effect of, publication of, and applying of the Codes and statutes in force can be found in Deering's Annotated Penal Code, p. 442, et seq.

An Act to create and establish a commission for revising, systematizing, and reforming the laws of this State, and for the appointment of the members of said commission, to be known as "The Commissioners for the Revision and Reform of the Law," and to prescribe their powers and duties; and to authorize the appointment of a secretary and stenographer therefor; and to provide for the compensation and expenses of said commission, secretary, and stenographer, and to appropriate money therefor.

[Approved March 28, 1895; Stats. 1895, chap. ccxxii.  
In effect immediately.]

The commission.

Section 1. A non-partisan commission, consisting of three persons as hereinafter designated, is hereby created and established, for the purposes of revising, compiling, correcting, amending, systematizing, improving, and reforming the laws of this state, for the advancement and welfare of the people thereof.

### Qualifications of members.

Sec. 2. The members of said commission shall be known and designated as "The Commissioners for the Revision and Reform of the Law," and the term of office shall be two (2) years from and after the first day of April, eighteen hundred and ninety-five. They shall not belong to the same political party, but shall be members of the legal profession who have for more than five years prior to their appointment been engaged in the practice of law in this state, and admitted to practice before the supreme court. Each shall be appointed from and represent a separate portion of the state.

### Manner of appointment.

Sec. 3. Said commissioners shall be appointed by the governor within ten days from the passage of this act. In case of a vacancy or vacancies in said commission by death, resignation, removal, or otherwise, a successor or successors to fill such vacancy or vacancies for the unexpired term shall be appointed in like manner.

### Notice of appointment.

Sec. 4. The secretary of state shall, after the passage of this act and the appointment of such commissioners, immediately notify each appointee thereof, and issue to each appointee a commission, under the great seal of this state, notifying him of the passage of said act and of his appointment by the governor. Each appointee shall immediately upon receiving said notice of his appointment, if he accepts the same, take and subscribe an oath of office, which shall be filed in the office of the secretary of state.

### Organization of commission.

Sec. 5. The commission shall hold its sessions in a room to be provided by the secretary of state, in the state capitol, and shall enter upon the discharge of its duties immediately after its organization. Said commissioners shall select and adopt a suitable seal for the authentication of their acts, records, and proceedings, and adopt and provide for the publication of such reasonable and proper rules and regulations for the conduct of the business of said board, and for the promotion of the objects intended to be advanced by this act. They shall, thereupon, select and appoint a secretary

and stenographer, to hold office during the pleasure of said board, who shall attend all the sittings of said board, and act under its supervision.

Powers and duties.

Sec. 6. 1. It shall be the duty of said commissioners to revise and examine the Political Code, the Civil Code, the Code of Civil Procedure, and the Penal Code of the state of California.

2. To revise and examine all the statutes of this state that have been or shall hereafter be passed by the legislature thereof and published by the state.

3. They shall ascertain, determine, and designate, according to their best judgment, those statutes now in force, and those expressly or by implication repealed.

4. They shall note and designate the errors, defects, or omissions, verbal, grammatical, or otherwise, and suggest what will be necessary to supply, correct, or amend the same, and such improvements as shall introduce precision and clearness into the wording of the codes and statutes.

5. All or any of the reports, records, or proceedings of said commission shall be printed by the state printer, on the requisition of said board, when so ordered and directed by said board.

6. Said board shall have power to order the state printer to print and deliver to the secretary of said board such number as said board may designate of any report, record, or proceedings of said board.

7. Said commissioners, or either of them, upon the request of the legislature, or a duly appointed committee thereof, shall attend at the capitol during the sitting of said session of the legislature, and act as legislative counsel or adviser, in drafting or passing upon the form of any bill, or proposed bill, pending or to be introduced before the legislature; and also, when requested, give advice to said legislature, or such committee, as to the form of any proposed legislation, and its effect upon existing laws, and as to whether said bill, as drawn and presented, is so constructed and worded as to carry out the purpose intended.

8. Thirty days prior to every session of the legislature, said board shall make and file with the

secretary of state a report of their transactions relating to legislative matters, or which would give any information or knowledge to said legislature as to legislation in the past, and as to the policy for future legislation. And they shall also report to said legislature such suggestions as they deem proper for the promotion of the public welfare and the best interests of the state, or any locality or citizens thereof, and file therewith schedules or exhibits, showing the form or substance of all proposed legislation which they recommend. And they shall suggest all such improvements as shall conduce to precision and clearness in the wording of the codes and statutes, and propose such measures as may be necessary to improve or give unity and completeness to the system of the laws of this state. Said reports, schedules, and exhibits shall be printed by the state printer, upon the requisition and under the supervision of the commissioners. They shall be so printed as to show, in the readiest manner, the changes proposed by the commission, and in those cases wherein it shall recommend the repeal of a law, and propose a substitute therefor, such law and substitute shall be printed in the manner most convenient for comparison.

9. Said board shall at all such times as they may designate by rules and regulations which they may adopt, sit in open session and hear such printed or oral arguments as may be addressed to them, for or against any proposed or existing legislation. All such sessions of the board shall be open to the public, and a record of all proceedings shall be kept and preserved by the secretary of said board.

#### Compensation.

Sec. 7. 1. Said commissioners shall receive for their services, from the state, the sum of four thousand dollars each per annum; such compensation shall be paid in the same manner as the salaries of the justices of the supreme court are now paid.

2. The secretary of the commission shall receive the sum of two hundred dollars (\$200) per month, and the stenographer one hundred dollars (\$100) per month, payable in like manner as the salaries are paid to the members of said commission.

3. The expenses incurred by said commission, or the members thereof, exclusive of salaries, shall be set forth in detail in an itemized statement, and thereupon a requisition shall be made by said board of commissioners upon the state controller, accompanied by the sworn certificates of all the commissioners that the services have been performed and the materials used or things furnished, and that said sums are justly due.

4. And said state controller is hereby directed to draw his warrant on the treasurer for the payment of said salaries, when due and payable, as herein provided. And also for such sums as are covered by said requisitions, and the treasurer is hereby directed to pay the same out of any money not otherwise appropriated.

Sec. 8. This act shall take effect and be in force from and after the date of its passage.

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## TITLE 43.

### COLLEGES.

See Education.

649.7

Acts relating to: See University of California.

The Civil Code provides for the incorporation of colleges and seminaries of learning (secs. 649-651). As there may, however, be some doubt as to how far the old laws are affected, it is deemed proper to refer to the legislation, and at the same time call attention to provisions to be found in sections 330 and 4478 of the Political Code, and 20 and 286 of the Civil Code.

The old laws on the subject of colleges will be found collated in "General Laws," sec. 573, and "Supplement," secs. 7455, 7759.

See also:

An act supplementary to an act entitled "An act to provide for the incorporation of colleges, approved April 20, 1850," approved January 8, 1872; 1871-2, 10.



An act to amend the last-named act, approved February 7, 1874; 1873-4, 85.

There is also an act entitled "An act to confer further powers and privileges on the trustees of the Los Nitos collegiate institute," approved March 11, 1874; 1873-4, 341. This is unquestionably in force; but being special in its character, it is omitted.

An act expressing assent of the state of California to the act of congress, approved August thirtieth, eighteen hundred and ninety, entitled "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress, approved July second, eighteen hundred and sixty-two," and to the purposes of the grants of moneys authorized thereby, and to all the provisions thereof.

[Approved March 31, 1891; Statutes 1891, p. 458.]

The object of the act sufficiently appears from the title.

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#### TITLE 44.

#### COLUMBIAN EXPOSITION.

See post, World's Exhibitions.

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#### TITLE 45.

#### COLUSA COUNTY.

For a reference to local acts relating to Colusa county, see Deering's Annotated Penal Code, pp. 449, 450.



## TITLE 46.

## CONGRESSIONAL DISTRICTS.

An act to divide the State of California into congressional districts.

[Approved March 11, 1891; Statutes 1891, p. 84.]

Consult statutes of 1891 for the act.

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## TITLE 47.

## CONSTABLES.

Acts relating to: See Political Code, Appendix, title, Constables, p. 958.

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## TITLE 48.

## CONSTITUTION.

An act to provide for a convention to frame a new constitution for the state of California.

[Approved March 30, 1878; 1877-8, 759.]

The purpose of the act appears from the title.

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## TITLE 49.

## CONTAGIOUS DISEASES AMONG SHEEP.

An act authorizing and empowering the boards of supervisors of the several counties of the state to prevent and eradicate infectious and contagious diseases among sheep, to provide for the appointment of a sheep commissioner, and to define the duties and powers of commissioner.

[Approved March 16, 1889; 1889, 216.]

Appointment of sheep commissioner.

Section 1. Whenever a petition shall be filed

with the board of supervisors of any county in this state, signed by not less than fifty resident freeholders of such county, praying for the appointment of the commissioner herein named, said board may, if deemed advisable, appoint some competent person, a resident of the county, who shall act and be known as sheep commissioner, whose duties and powers, which are to be exercised in the prevention and eradication of contagious diseases among sheep, shall be defined and determined by said board; and the fees and compensation of such commissioner, only to be charged when he is actually and necessarily engaged in the performance of his duties, shall be paid out of the treasury of said county as claims against counties are now paid, and be fixed by said board at the time of such appointment.

Sec. 2. This act shall take effect immediately.

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## TITLE 50.

### CONTRA COSTA COUNTY.

A reference to special acts relating to Contra Costa county can be found in Deering's Penal Code. pp. 455-457.

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## TITLE 51.

### CONTRACTS.

An act to provide for the letting of contracts for lighting of streets and public buildings in cities and towns in the state of California.

Section 1. Before any city or town in the state of California shall enter into any contract for the lighting of its streets, or public buildings, or other public places, the city council or trustees, or other governing body of such city or town, shall advertise for bids for such lighting, and cause a notice to be posted in three public places in the city or town, inviting sealed proposals for doing such lighting, referring to the specifications posted or on file. The advertisements for bids shall be pub-

lished for ten days, in the newspaper designated by such city or town as its official paper, in which other legal notices, orders, and ordinances are required to be published, if there be any such official paper; but if there be no such official paper, then such advertisements for bids shall be published in any newspaper of general circulation designated by such city council, trustees, or other governing body; provided, that any city or town of less than ten thousand inhabitants may contract for street lighting at a price of ten dollars per month or less for each light of two thousand candle power without complying with the terms of this act. [Amendment approved March 27, 1897, chap. ciii. In effect immediately.]

Sec. 2. All contracts for the lighting of streets, public buildings, and other public places, after bids have been advertised for and notice given, as provided in section one of this act, shall be let to the lowest responsible bidder. The city council, trustees, or other governing body of such city or town may reject any and all the bids.

Sec. 3. Each bid shall be accompanied by a check, payable to the order of the mayor or president, or other chief officer of such city or town, and certified by a responsible bank, for at least ten per cent of the amount of the bid, or by a bond for said amount, signed by the bidder and two sureties, who shall qualify under oath in double said amount, over and above all statutory exemptions. Said bids shall be delivered in a sealed envelope to the clerk of said city council, trustees, or other governing body, and said city council, trustees, or other governing body shall, in open session, open said bids, examine, and publicly declare the same. If none of said bids are accepted, a re-advertisement and notice for bids for such lighting shall then be had as provided for in the first instance. If any of said bids are accepted, then such city council, trustees, or other governing body of such city or town, shall enter into a contract with the bidder whose bid is accepted, to do such lighting, which contract shall embody the specifications and terms for such lighting placed on file before any bids are advertised for. But no

contract shall be made for a longer period than one year, and every such contract shall go into effect within six months after the bid is approved. Any check or bond accompanying any unaccepted bid shall be returned to the party furnishing the same, when his bid is rejected; any check or bond accompanying any accepted bid shall be retained by the clerk till the successful bidder shall have entered into a contract as herein provided, and then be returned to said bidder; but if such bidder shall refuse to enter into such contract, his check or bond shall be declared forfeited to such city or town, and shall be collected and paid into the general fund thereof.

Sec. 4. This act shall take effect and be in force from and after its passage. [Stat. approved March 26, 1895; Statutes, 1895, p. 191.]

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## TITLE 52.

### CONTROLLERS.

Acts relating to: See Political Code, Appendix, title, Controllers, p. 958.

See, also, act authorizing additional clerk for, approved March 20, 1895, Stats. 1895, p. 67.

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## TITLE 53.

### CONVICTS.

Acts relating to: See Penal Code, Appendix, title, Convicts, p. 524.

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## TITLE 54.

### CO-OPERATIVE ASSOCIATIONS.

Acts relating to: See Civil Code, Appendix, title, Co-operative Associations, p. 742 et seq.

## TITLE 55.

## CORONERS.

Acts relating to: See Penal Code, Appendix, title, Coroners, p. 525.

## TITLE 56.

## CORPORATIONS.

Acts relating to: See Civil Code, Appendix, title, Corporations, p. 750 et seq.; Penal Code, Appendix, title, Corporations, p. 541.

The law in reference to the formation, powers, privileges, obligations, and incidents of corporations will be found in the Civil Code, secs. 283-648, inclusive, which seems to have superseded all the old laws upon the same subject. By operation, however, of section 288, the old laws remain in force in so far as applicable to certain corporations formed previous to January 1, 1873, therein referred to. They are, therefore, now to be considered only as special in their character. They will be found collected and collated in "General Laws," sec. 746, and "Supplement," sec. 7611.

In addition to the statutes collected and collated as above mentioned, the following later enactments, in addition to those inserted in the Civil Code, may be referred to:

An act to amend an act entitled "An act to provide for the formation of corporations for the accumulation and investment of funds and savings, approved April 11, 1862," approved February 21, 1872; 1871-2, 132.

An act to amend an act entitled "An act concerning street railroads, approved March 29, 1870," approved March 23, 1872; 1871-2, 515.

An act to amend an act entitled "An act to provide for the formation of corporations for certain  
- Gen. Laws—7.

*Ref*  
 purposes, approved April 14, 1853," approved March 23, 1872; 1871-2, 526. This act was in reference to manufacturing, mining, and other business corporations, and provides for the filing of certified certificates in the counties in which they were to carry on business.

*Ref*  
 An act concerning assessments upon the stock of corporations (relating to collection of assessments of the "Southern District Agricultural Association"), approved March 27, 1872; 1871-2, 626.

*Ref*  
 An act supplemental to an act entitled "An act to authorize the incorporation of canal companies, and to provide for the construction of canals and ditches, approved April 2, 1870," approved March 30, 1872; 1871-2, 732. This act applies only to Tehama county.

An act to authorize the Mutual Life Insurance Company of New York and the Equitable Life Assurance Company of the United States to invest moneys in real and personal estate within the limits of California, approved March 28, 1874; 1873-4, 777.

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## TITLE 57.

### COSTS.

*See C. 1850*  
 Acts relating to: See Code of Civil Procedure, Appendix, title, Costs, p. 790; Penal Code, Appendix, title, Costs, p. 542.

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## TITLE 58.

### COUNTIES.

*Pub. 144*  
 An act to provide for the transfer of certain moneys from one county to another, when a new county has been formed and organized.

Section 1. Whenever a new county has been formed within the state, it shall be the duty of the treasurer of the county or counties out of whose

territory said new county shall have been formed to immediately cause to be transferred to the county treasurer of the new county thus formed all moneys standing to the credit of or belonging to any road or school district, the territory comprising which has been segregated from such old county, and which is included in the boundaries of such new county.

Sec. 2. Whenever, in the formation of a new county, a road or school district has been divided, the board of supervisors shall, by order, direct the treasurer to transfer a proportionate amount of the moneys remaining in the fund of such district to the treasurer of the new county.

Sec. 3. This act shall be held to apply expressly to counties heretofore divided and new counties created from the territory of the same, when no provision was made in the act creating such county for the transfer of the moneys herein provided to be made.

Sec. 4. A compliance with the provisions of this act shall be a full and complete settlement of all demands which the new county had against the old county or counties.

Sec. 5. This act shall take effect immediately. [Approved March 23, 1893; Stats. 1893, p. 235.]

Particular counties: See Particular Title.

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## TITLE 59.

### COUNTY BOUNDARIES.

Consult the following acts:

An act to change and permanently locate the boundary line between the counties of Butte and Yuba. *Rev.*

[Stat. approved February 25, 1897; Stats. 1897, chap. xxvi.] *59*

An act to more clearly define the boundary line between the counties of Lake and Yolo, in the state of California.

[Approved April 1, 1872; Statutes 1871-2, p. 903.]

An act to better define the boundary line of Mariposa and Fresno counties.

[Approved April 1, 1872; Statutes 1871-2, p. 891. Amended February 11, 1874; Statutes 1873-4, p. 100.]

An act providing for the survey of the line forming a portion of the southern boundary of Siskiyou county and the northern boundary of Lassen county.

[Approved April 1, 1873; Stats. 1871-2, p. 886.]

An act to define the northern boundary line of Napa county, adjoining Lake and Yolo counties.

[Approved March 8, 1872; Stats. 1871-2, p. 305.]

An act to change and permanently locate the boundary lines between the counties of San Luis Obispo and Kern.

[Approved March 14, 1885; Stats. 1885, p. 139.]

An act to change and permanently locate the boundary lines between the counties of Glenn and Colusa.

[Approved March 11, 1893; Stats. 1893, p. 158.]

Act to establish the county line between Fresno and Tulare.

This act was virtually repealed by the operation of the following law: "An act to establish the county line between the counties of Fresno and Tulare." [Stats. 1875-6, p. 397. Approved March 23, 1876.]

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## TITLE 60.

### COUNTY CLERKS.

Acts relating to: See Political Code, Appendix, title, County Clerks, p. 958.



## TITLE 61.

### COUNTY GOVERNMENT.

- § 1. Counties are bodies politic.
- § 2. Powers exercised by agents.
- § 3. Names of.
- §§ 4-5. Powers.
- § 6. Contracts and acts in violation of act.
- § 7. Officers violating provisions of act.
- § 8. Money paid without authority, recovery of.
- § 9. Instructions to grand jury.
- § 10. Population of counties.
- § 11. County seats.
- § 12. Removal of county seats.
- § 13. Ordinance, submission of.
- §§ 14-19. Supervisors.
- § 20. Clerk of board.
- § 21. Records of board.
- §§ 22-24. Meetings of board.
- §§ 25-53. General powers.
- § 54. Eligibility of officers.
- § 55. County officers.
- § 56. Township officers.
- § 57. Notice, publication of.
- § 58. Election of officers.
- § 59. Deputies.
- § 60. Officer includes deputy.
- § 61. Residence and office hours.
- § 62. Liability of sureties.
- § 63. Oaths, who may administer.
- § 64. Absence of officer from state.
- § 65. What officers not to practice law.
- § 65. What officers not to act as notaries.
- § 66. Bonds of officers.
- §§ 67-87. Treasurers.
- § 88. Process and notice, definitions of.
- §§ 89-106. Sheriffs.
- §§ 107. 108. County Clerks.
- §§ 109-118. Auditors.
- §§ 119-131. Recorders.
- §§ 132-134. District Attorney.
- §§ 135-141. Surveyor.
- §§ 142-147. Coroners.
- § 148. Assessor.
- § 149. Tax Collector.
- § 150. School Superintendent.
- §§ 151, 152. Public Administrator.
- §§ 153, 154. Constables.
- § 155. Justices of the Peace.
- §§ 156, 220. Salaries.

§ 157. Classification.

§§ 158-215. Compensation of officers.

§§ 216-225, 227. Fees.

§ 226. Services performed by successor.

§ 228. County Charges.

§§ 229, 230. Costs on removal of officers.

§ 231. New counties, organization of—reduction of population.

§ 232. Repeal of inconsistent acts.

§ 233. Salaries of incumbents.

§ 234. In effect, when.

An act to establish a uniform system of county and township governments.

[Stat. approved April 1, 1897; Stats. 1897, ch. cclxxvii.]

Section 1. The several counties of this state, as they now exist, and such other counties as may be hereafter organized, according to law, are bodies corporate and politic, and as such have the powers specified in this act, and such other powers as are necessarily implied.

Sec. 2. Their powers can only be exercised by the board of supervisors, or by agents and officers acting under their authority, or authority of law.

Sec. 3. The name of a county designated in the law creating it is its corporate name, and it must be designated thereby in all actions and proceedings touching its corporate rights, property, and duties.

Sec. 4. It has power:

1. To sue and be sued.
2. To purchase and hold land within its limits.
3. To make such contracts and purchase and hold such personal property as may be necessary to the exercise of its powers.

4. To manage and dispose of its property as the interests of its inhabitants may require.

5. To levy and collect such taxes, for purposes under its exclusive jurisdiction, as are authorized by law.

Sec. 5. No county shall, in any manner, give or loan its credit to or in aid of any person or corporation. An indebtedness or liability incurred contrary to this provision shall be void.

Sec. 6. All contracts, authorizations, allowances, payments, and liabilities to pay, made or

attempted to be made in violation of this act, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such county. And all officers of said county, are charged with notice of the condition of the treasury of such county, and the extent of the claims against the same.

Sec. 7. Any officer authorizing, or aiding to authorize, or auditing, or allowing, or paying any claim or demand upon or against said treasury, or any fund thereof, in violation of any of the provisions of this act, or of the constitution of this state, shall be liable in person, and upon his official bond, to the person or persons damaged by such illegal authorization, to the extent of his or their loss by reason of the non-payment of his or their claims.

Sec. 8. Whenever any board of supervisors shall, without authority of law, order any money paid as a salary, fees, or for any other purposes, and such money shall have been actually paid; or whenever any county officer has drawn any warrant or warrants in his own favor, or in favor of any other person, without being authorized by the board of supervisors, or by the law, and the same shall have been paid, the district attorney of such county is hereby empowered, and it is hereby made his imperative duty, to institute suit, in the name of the county, against such person or persons, to recover the money so paid, and twenty per cent damages for the use thereof; and no order of the board of supervisors therefor shall be necessary to maintain such suit. When the money has not been paid on such order or warrants, it is hereby made the imperative duty of the district attorney of such county, upon receiving notice thereof, to commence suit, in the name of the county, to restrain the payment of the same; and no order of the board of supervisors shall be necessary in order to maintain such suit.

Sec. 9. It shall be the duty of the judge of the superior court of each and every county, whenever a grand jury is impaneled, to call their attention to the provisions of the foregoing sections, and to instruct them to ascertain, by careful and diligent investigation, whether the provisions of said sections have been complied with, and to

note the result of such investigation in their report.

Sec. 10. The population of the several counties of this state is hereby ascertained and determined to be and is as follows: County of San Francisco, two hundred and ninety-eight thousand two hundred and fifteen; county of Los Angeles, one hundred and twenty-four thousand eight hundred and seventy-five; county of Alameda, one hundred thousand four hundred and fifteen; county of Santa Clara, fifty-eight thousand two hundred and ninety; county of Sacramento, forty-seven thousand eight hundred and twenty; county of Sonoma, thirty-seven thousand three hundred and forty-five; county of San Joaquin, thirty-six thousand six hundred and seventy; county of San Diego, thirty-five thousand six hundred and twenty; county of Fresno, thirty-five thousand and eighty; county of San Bernardino, twenty-seven thousand five hundred; county of Humboldt, twenty-seven thousand two hundred and fifty-five; county of Solano, twenty-six thousand one hundred and thirty; county of Tulare, twenty-four thousand one hundred and fifty; county of Butte, twenty-two thousand seven hundred and seventy; county of Santa Cruz, twenty-two thousand and fifty-five; county of Nevada, twenty-one thousand nine hundred and five; county of Mendocino, twenty-one thousand and ninety-five; county of Monterey, twenty thousand six hundred; county of San Luis Obispo, twenty thousand one hundred and forty; county of Placer, eighteen thousand nine hundred and eighty-five; county of Riverside, eighteen thousand four hundred; county of Santa Barbara, eighteen thousand three hundred and ten; county of Napa, eighteen thousand two hundred and twenty; county of Yolo, seventeen thousand three hundred and seventy-five; county of Kern, seventeen thousand three hundred and thirty; county of Contra Costa, seventeen thousand two hundred; county of Orange, sixteen thousand five hundred and forty; county of Siskiyou, sixteen thousand one hundred and ninety; county of Shasta, sixteen thousand one hundred and forty-five; county of Ventura, fourteen thousand four hundred and ten; county

of Calaveras, fourteen thousand one hundred and seventy-five; county of Amador, thirteen thousand two hundred and fifty; county of El Dorado, thirteen thousand and forty; county of Stanislaus, twelve thousand seven hundred and forty-five; county of San Mateo, twelve thousand four hundred and fifty; county of Tehama, eleven thousand six hundred and seventy-five; county of Yuba, eleven thousand six hundred and thirty-five; county of Marin, eleven thousand three hundred and sixty; county of Colusa, ten thousand five hundred and ten; county of Tuolumne, ten thousand two hundred and thirty-five; county of Merced, nine thousand eight hundred and fifteen; county of San Benito, nine thousand and ninety; county of Kings, eight thousand nine hundred and thirty-five; county of Sutter, eight thousand five hundred and sixty-five; county of Madera, seven thousand nine hundred and seventy-five; county of Lake, seven thousand six hundred; county of Glenn, seven thousand four hundred and forty-five; county of Sierra, six thousand five hundred and forty; county of Plumas, five thousand nine hundred and seventy; county of Mariposa, five thousand seven hundred and twenty; county of Modoc, five thousand five hundred and sixty-five; county of Lassen, five thousand three hundred and thirty; county of Trinity, four thousand nine hundred and ninety; county of Inyo, four thousand three hundred and sixty; county of Del Norte, three thousand four hundred and sixty-five; county of Mono, two thousand seven hundred and seventy-five; county of Alpine, four hundred and ninety.

Sec. 11. The county seats of the respective counties of this State, as now fixed by law, are hereby recognized as and declared to be the county seats of the respective counties. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal.

Sec. 12. Whenever there shall be presented to the board of supervisors of any county a petition, signed by the qualified electors of such county, in number equal to a majority of the votes cast at

the preceding general election, praying for the submission of the question of the removal of the county seat of such county, it shall be the duty of the board of supervisors, by due proclamation, to submit the question of such removal of the county seat at the next general election to the qualified electors of such county. The election shall be conducted and the returns canvassed in all respects as provided by law for the conduct of general elections and canvassing the returns thereof.

Sec. 13. Whenever there shall be presented to the board of supervisors, a petition, or petitions, signed by legal voters of said county equal in number to fifty per cent of the votes cast at the last preceding general election, asking that an ordinance, to be set forth in such petition, be submitted to a vote of the qualified voters of such county, it shall be the duty of the board of supervisors, by proclamation, to submit such proposed ordinance to the vote of the qualified electors of such county. Such election shall be held within thirty days after the first regular meeting of the board after the filing of such petition; provided, that should said petition be filed within six months prior to a general election, no special election need be held, but such ordinance shall be submitted at the next general election. The ballots used at such special or general election shall contain the words "For the ordinance" (stating the nature of the ordinance), and "Against the ordinance," stating the nature of the ordinance. The election shall be conducted and the returns canvassed in all respects as provided by law, for the conducting of general elections and the canvassing the returns thereof; provided, that when a special election is held under the provisions of this section, the board of supervisors, in their discretion, may consolidate precincts, and may reduce the number of election officers to a number not less than four. If a majority of the votes cast upon such ordinance shall be in favor of the adoption thereof, the board of supervisors shall proclaim such fact, and upon the publication of such proclamation, such ordinance thus adopted shall have the same and equal force and effect as though adopted and ordained by the board of supervisors. The board of supervisors may also, at



any election, submit any question or proposition upon which they may desire the opinion of the voters of the county.

## BOARD OF SUPERVISORS.

Sec. 14. Each county must have a board of supervisors, consisting of five members.

Sec. 15. Each member of the board of supervisors must be an elector of the district which he represents, must reside therein during his incumbency, must have been such elector for at least one year immediately preceding his election, and shall be elected by such district, and not at large, provided, that in any county or city and county in which supervisorial districts have not been established by law or ordinance, and in which supervisors are now required to be elected at large, but from particular wards, the members of the board of supervisors shall be elected at large and without regard to residence.

Sec. 16. The board of supervisors may, by a two-thirds vote of the members of said board, change the boundaries of any or all of the supervisor districts of a county. Said districts shall be as nearly equal in population as may be. The boundaries of no supervisor district shall at any time be changed in such manner as to affect the term of office of any supervisor who has been elected, and whose term of office has not expired. No change in the boundaries of any supervisor district shall be made within ninety days next preceding a general election.

Sec. 17. Whenever a vacancy occurs in the board of supervisors of a county, the governor shall fill the vacancy, and the appointee shall hold office until the election and qualification of his successor. In such case the election of a supervisor shall be held at the next general election to fill the vacancy for the unexpired term, unless such term expires on the first Monday after the first day of January succeeding said election.

Sec. 18. The supervisors shall elect a chairman, who shall preside at all meetings of the board, and in case of his absence or inability to act, the members present must, by an order entered on their records, select one of their number to act as chair-

man temporarily. Any member of the board may administer oaths, when necessary in the performance of his official duties. A majority of the members of the board shall constitute a quorum for the transaction of business, and no act of the board shall be valid or binding unless a majority of all the members concur therein.

Sec. 19. The county clerk is ex officio clerk of the board of supervisors. The records and minutes of the board must be signed by the chairman and the clerk.

### CLERK OF THE BOARD.

Sec. 20. The clerk of the board must:

1. Record all the proceedings of the board.
2. Make full entries of all their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county.
3. Record the vote of each member on any question upon which there is a division, or at the request of any member present.
4. Immediately after the adjournment of each meeting of the board, certify all demands allowed and orders made for the payment of money, giving the amount and date of each demand, or order, and the date of the allowance thereof, which demands, or orders, shall be countersigned by the chairman of the board, and thereafter said clerk shall deliver to and leave the same with the auditor.
5. File and preserve the reports of the county treasurer of the receipts and disbursements of the county.
6. Preserve and file a memorandum of all accounts acted upon by the board.
7. Preserve and file all petitions and applications for franchises, and record the action of the board thereon.
8. Authenticate with his signature and seal of the board the proceedings of the board, whenever the same shall be ordered published.
9. Authenticate with his signature and the seal of the board, all ordinances passed by the board, and to record the same at length in the "Ordinance Book."



10. Record all orders levying taxes; and,
11. Perform all other duties required by law, or any rule or order of the board.

Sec. 21. The board must cause to be kept:

1. A "Minute Book," in which shall be entered the daily proceedings had at all regular and special meetings, and all orders and decisions made by them, except such as are required to be recorded in the "Road," "Franchise," or "Ordinance" books.

2. An "Allowance Book," in which must be recorded all orders for the allowance of money, from the county treasury, to whom made, and on what account, dating, numbering, and indexing the same through each year.

3. A "Road Book," containing all proceedings and adjudications relating to the establishment, maintenance, change, and discontinuance of roads and road districts.

4. A "Franchise Book," containing all franchises granted by them, and all proceedings had in relation thereto.

5. A "Warrant Book," to be kept by the county auditor, in which must be entered, in the order of drawing, all warrants drawn on the treasury, with their number, and reference to the order on the minute book, with the date, amount, on what account, and name of payee.

6. An "Ordinance Book," in which must be entered all ordinances duly passed by the board.

Sec. 22. The board of supervisors must, by ordinance, provide for the holding of regular meetings of the board at the county seat.

Sec. 23. A special meeting may be ordered by a majority of the board. The order must be signed by the members calling such meeting, and must be entered in the minutes. Five days' notice of such meeting must be given by the clerk, personally or by mail, to the members not joining in the order. The order must specify the business to be transacted at such special meeting, and none other shall be transacted.

Sec. 24. All meetings of the board must be public, and the books, records, and accounts of the board must be kept at the office of the clerk, open at all times for public inspection.

Gen. Laws—8.

## GENERAL PERMANENT POWERS OF BOARDS.

Sec. 25. The boards of supervisors, in their respective counties, shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law:

1. To supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county charged with the assessing, collecting, safe-keeping, management, or disbursement of the public revenues; to see that they faithfully perform their duties, direct prosecutions for delinquencies, and, when necessary, require them to renew their official bonds, make reports and present their books and accounts for inspection.

2. To divide the counties into townships, election, school, road, supervisor, sanitary, and other districts required by law, change the same, and create others, as convenience requires.

3. To establish, abolish, and change election precincts, and to appoint inspectors and judges of election, canvass all election returns, declare the result, and order the county clerk to issue certificates thereof; but no election precinct shall be established or abolished, or the boundaries of any precinct changed, within ninety days prior to any election.

4. To lay out, maintain, control, construct, repair, and manage public roads, turnpikes, ferries, wharves, chutes, and other shipping facilities and bridges within the county, unless otherwise provided by law, and to grant franchises and licenses to collect tolls thereon; provided, where the cost of the construction of any bridge, wharf, chute, or other shipping facilities that may be built under the provisions of this subdivision exceeds the sum of five hundred dollars, they must cause to be prepared and must adopt plans and specifications, strain sheets, and working details, and must advertise for bids for the construction of such bridge, wharves, chutes, or other shipping facilities, unless otherwise provided by law, in accordance with the plans and specifications so adopted.

All bidders shall be afforded opportunity to examine such plans and specifications, and said board shall award the contract to the lowest responsible bidder, and the plans and specifications so adopted shall be attached to and become a part of the contract; and the person or corporation to whom the contract is awarded shall be required to execute a bond, to be approved by said board, for the faithful performance of such contract; provided, that after the submission of the bids as herein provided, the board of supervisors being advised by the county surveyor that the work can be done for a sum less than the lowest responsible bid, it shall then be their privilege to reject all bids and to order the work done or structure built by day's work, under the supervision and control of the said surveyor; provided further, that the surveyor in such cases shall be held personally responsible, under his official bond, to construct said bridge or structure, according to his plans and specifications, at a cost not to exceed the amount of the lowest responsible bid received; provided, that the road commissioners or road overseers in their respective districts shall employ all labor required and direct the conduct of work of any kind upon any and all public roads; provided further, that in cases of great emergency, by the unanimous consent of the whole board, they may proceed at once to replace or repair any and all bridges and structures without notice.

5. To construct or lease, officer and maintain, hospitals and poorhouses, or otherwise, in their discretion, provide for the care and maintenance of the indigent sick or dependent poor of the county; and for such purposes to levy the necessary property or poll taxes, or both. The board of supervisors shall appoint some suitable person to take care of and maintain such hospitals and poorhouses, and shall also appoint some suitable graduate or graduates in medicine to attend to such indigent sick or dependent poor, and to the patients in such hospitals and poorhouses. The board shall not let the care, maintenance, or attendance of such indigent sick or dependent poor by contract to the lowest bidder.

6. To provide a farm, in connection with the

county hospital, or poorhouse, and make regulations for working the same.

7. To purchase, receive by donation, or lease any real or personal property or water rights necessary for use of the county, and to purchase or otherwise acquire necessary real estate upon which to sink wells to obtain water for sprinkling roads, and other county purposes, and to erect thereon tanks and reservoirs for the storage of water for such purposes, and to erect pumping apparatus for obtaining the same, to preserve, take care of, and manage and control the same; but no purchase of real property shall be made unless a notice of the intention of the board to make such purchase, describing the property to be purchased, the price to be paid therefor, from whom it is proposed to be purchased, and fixing the time when the board will meet to consummate such purchase, has been published for at least three weeks in some newspaper of general circulation, published in the county; or if none be published in the county, then has been posted at least three weeks prior to the time when the board meets to consummate such purchase, in at least three public places in each supervisor district.

8. To cause to be erected or rebuilt, or furnished, a courthouse, jail, hospital, and such other public buildings as may be necessary, or to provide suitable buildings for such purposes. None of the aforesaid buildings shall be erected or constructed until the plans and specifications have been made therefor and adopted by the board. All such buildings must be erected by contract, let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation published in such county, for at least thirty days. In case there is no newspaper published in such county, then such notice shall be given by posting in three public places.

9. To sell at public auction, at the courthouse door, or at such other place within the county, as the board may, by a four-fifths vote, order, after thirty days' notice, given either by publication in a newspaper published in the county, or by posting in five public places in the county, and convey to the highest bidder for cash, any property belonging to the county not required for public use,

paying the proceeds into the county treasury for the use of the county; provided, if in the unanimous judgment of the board, the property does not exceed in value the sum of seventy-five dollars, or if it be the product of the county farm, the same may be sold at private sale without advertising by any member of the board empowered for that purpose by a majority of the board.

10. To examine and audit, at least every twelve months, the accounts of all officers having the care, management, correction, or disbursement of moneys belonging to the county, or moneys received or disbursed by them under authority of law.

11. To examine, settle, and allow all accounts legally chargeable against the county, except salaries of officers, and such demands as are authorized by law to be allowed by some other person or tribunal, and order warrants to be drawn on the county treasurer therefor.

12. To levy taxes upon the taxable property of their respective counties for all county purposes, and also upon the taxable property of any district, for the construction and repair of roads and highways and other district purposes; provided, that no tax shall be levied upon any district until the proposition to levy the same has been submitted to the qualified electors of such district, and received a majority of all the legal votes cast upon such proposition.

12½. Whenever there shall be presented to the board of supervisors of any county a petition signed by the qualified electors of any township or townships in number equal to a majority of the votes cast at the preceding general election, praying that said township or townships may be allowed to take the census of said township or townships for the purpose of ascertaining the population therein contained, the board of supervisors shall order such census to be taken by one or more suitable persons appointed therefor by the board of supervisors, and such census shall be taken by such persons so appointed of all the inhabitants of such township or townships; the full name of each person shall be plainly written, the names alphabetically arranged and regularly numbered in one complete series, and when completed shall be

verified before any officer authorized to administer oaths, and be filed with the county clerk of the county wherein such census is taken, and thereupon the same shall be known and shall be the official census of said township or townships. The expenses of taking such census shall be a county charge.

13. Any county having an outstanding indebtedness, evidenced by bonds or warrants thereof, may refund such indebtedness and issue bonds of the county therefor, and any county may incur or refund a bonded indebtedness for any purposes for which the board of supervisors are herein authorized to expend the funds of said county. Such indebtedness shall be refunded or incurred in the following manner, to-wit: The board of supervisors thereof shall by order specify the purpose for which the indebtedness is to be incurred, the amount of bonds which they propose to issue, the rate of interest, and the number of years, not exceeding forty, the whole or any part of said bonds are to run, and shall further provide for submitting the question of the issue of said bonds to the qualified electors of the county at a special election to be called by the board for that purpose, and the words to appear upon the ballot shall be "Bonds—Yes," and "Bonds—No," or words of similar import. None but qualified voters of the county shall be permitted to vote thereat, and it shall be held as nearly as practicable in conformity with the general election law of the State. Notice shall be given of such election by publication in one or more newspapers published in the county, once a week for at least four weeks, or daily for not less than thirty days, prior to said election. If there be no such newspaper, then by posting the same conspicuously in five public places in said county at least thirty days before said election. Such notice must contain the time and place or places of holding such election, the name of election officers to conduct the same, the amount and denomination of the bonds, the rate of interest to be paid, and the number of years, not exceeding forty, the whole or any part of such bonds are to run. If any election officers so named in such notice are not present at the opening of the polls, the electors present may appoint elec-



tion officers to take the place of such election officers so absent. If two-thirds of the electors of the county voting at such election shall vote in favor of issuing such bonds, the board must proceed to issue the amount of bonds specified; provided, that the total amount of bonded indebtedness shall at no time exceed five per cent of the taxable property of the county, as shown by the last equalized assessment book thereof. This limitation shall not apply to bonds which may be issued to refund an indebtedness existing January first, eighteen hundred and eighty. The board of supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds, and of the interest coupons attached thereto, and fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than forty years from the date thereof; and said board may also, at their option, by a provision in such bonds, make such principal payable on or before a specified date at the pleasure of the county. Said bonds may be issued in denominations not to exceed one thousand dollars and not less than one hundred dollars; principal and interest payable in gold coin of the United States, either at the treasury of said county, or at such place as such board may designate, or both at such treasury or such designated place, at the option of the bondholder. Interest on said bonds shall not exceed six per cent per annum, payable annually or semi-annually, as said board may designate. Said bonds shall be signed by the chairman of the board of supervisors, and attested by the auditor of said county, and have the seal of the board of supervisors attached, and said coupons shall be signed by said auditor by original or lithographed fac simile signature; and said bonds shall be sold in the manner prescribed by said board of supervisors, but for not less than par. The board of supervisors, before or at the time of incurring the indebtedness of any bonds issued under the provisions of this act, and annually thereafter until all of said bonds are paid and canceled, must levy a tax for that year upon the taxable property of said county for the interest and redemption of said bonds, and such tax must not be less than sufficient to pay the interest on said



bonds for that year, and such portion of the principal, if any, as is to become due during such year, and in any event must be sufficient to raise annually for the first half of the term said bonds have to run, a sufficient sum to pay the interest thereon; and during the balance of the term sufficient to pay such annual interest, and to provide annually a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run. And the board of supervisors, before or at the time of issuing said bonds by ordinance shall provide for the levy of an annual tax sufficient to effect the objects of this provision, and to provide for the payment of the interest on said bonds as it becomes due, and also sufficient to constitute a sinking fund to pay the principal of such indebtedness at or before maturity. Such tax when collected, shall be paid into the treasury of the county, and used solely to pay the interest and principal of said bonds as they respectively become due.

The revenue derived from the sale of said bonds shall be applied to the purpose specified in the order of the board, and no other. Should there be any surplus, it shall be applied toward the payment of said bonds. The board of supervisors of any county can contract a bonded indebtedness for county purposes only as herein provided.

In issuing bonds under this act, the board of supervisors may, at its option, use the following form of bond and coupon:

United States of America,  
No. ———. County of ———, \$——.  
State of California.

The county of ———, State of California, hereby acknowledges itself indebted and promises to pay the bearer hereof, on the first day of ———, one thousand ——— (herein insert, if the board of supervisors elect to make the bond payable on a certain date, or before that date, at the pleasure of the county, the words "or at any time before that date, at the pleasure of the county"), with interest thereon, in like gold coin, at the rate of ——— per centum per annum payable at ——— semi-annu-

ally (or annually) on the first day of ——— and ——— (or on the first day of ———, if interest payable annually) on presentation and surrender of the interest coupon hereto attached.

This bond is issued by the board of supervisors of the county of ———, State of California, in strict compliance with an act of the legislature entitled "An act to establish a uniform system of county and township governments," approved the ——— day of ———, 189—, and in pursuance of an order of said board duly made on the ——— day of ———, 18—, and with the assent of two-thirds of the qualified electors of said county, voting at an election legally called and duly held for that purpose on the ——— day of ———, 18—.

And it is hereby certified and recited that the bonded indebtedness of said county, including this bond, does not exceed five per cent of the taxable property thereof, as shown by the last equalized assessment of said county, and that provision has been made for the collection of an annual tax sufficient to pay the interest on this indebtedness as it falls due, and also sufficient to constitute a sinking fund for the payment of said indebtedness at or before maturity.

In witness whereof the said county, by its board of supervisors, has caused this bond to be signed by the chairman of said board, and attested by the auditor thereof, and the seal of the board of supervisors hereto attached this ——— day of ———, one thousand ———.

Chairman Board of Supervisors.

Attest: ———,  
County Auditor.

And the interest coupon may be in the following form:

"The county of ———, State of California, hereby promises to pay the holder hereof, on the ——— day of ———, one thousand ———, at ———, in ——— \$—— United States gold coin, for interest on its county bond No. ———.

\_\_\_\_\_  
"County Auditor."

If the board of supervisors of any county which has issued bonds under the provisions of this act shall fail to make the levy necessary to pay such

bonds or interest coupons at maturity, and the same shall have been presented to the county treasurer and the payment thereof refused, the owner may file the bond, together with all unpaid coupons with the state controller, taking his receipt therefor, and the same shall be registered in the state controller's office; and the state board of equalization shall, at their next session, and at each annual equalization thereafter, add to the state tax to be levied in said county, a sufficient rate to realize the amount of principal or interest past due and to become due prior to the next levy, and the same shall be levied and collected as a part of the state tax and paid into the state treasury and passed to the special credit of such county as bond tax, and shall be paid by warrants, as the payments mature, to the holder of such registered obligations, as shown by the register in the office of the state controller, until the same shall be fully satisfied and discharged, any balance then remaining being passed to the general account and credit of said county.

14. To maintain, regulate, and govern public pounds, fix the limits within which animals shall not run at large, and appoint poundkeepers, who shall be paid out of the fines imposed and collected from the owners of impounded animals, and from no other source.

15. To equalize assessments.

16. To direct and control the prosecution and defense of all suits to which the county is a party, and, by a two-thirds vote of all the members, may employ counsel to assist the district attorney in conducting the same.

17. To insure the county buildings and other property in the name of and for the benefit of the county.

18. To establish a salary fund, and such other county funds as they may deem necessary for the proper transaction of the business of the county, and to transfer moneys from one fund to another, as the public interest may require.

19. To fill, by appointment, all vacancies that may occur in any office filled by the appointment of the board of supervisors and elective county or township officers, except in those of judge of the superior court and supervisor, the appointee to

hold office for the unexpired term or until the next general election.

20. They may appoint in each county, a health officer, whose duty it shall be to enforce all orders and ordinances of the board of supervisors, pertaining to sanitary matters, and all orders, quarantine regulations, and rules prescribed by the state board of health, and all statutes relating to vital statistics. He shall give to the duties of his office such time and attention as may be necessary to secure general supervision of all matters pertaining to the health and sanitary condition of the county. He shall be a graduate of a medical college of good standing and repute, and shall hold office for a term of one year, and receive for his services a compensation not to exceed six hundred dollars per annum.

The board of supervisors shall adopt orders and ordinances necessary for the preservation of the public health of the county, not in conflict with general laws, and provide for the payment of all expense incurred in enforcing the same.

For any unincorporated town, when public necessity requires such action; the board of supervisors may appoint a special health officer, who shall, in such town, under the supervision of the county health officer, exercise all necessary diligence in executing the ordinances, rules, and regulations of the board of supervisors, or the state board of health, relating to health and sanitary matters. His term of office and compensation shall be fixed by the board of supervisors, and he shall receive as his compensation for services not to exceed one hundred dollars in any one year.

21. The board of supervisors of the several counties shall annually advertise, for at least ten days in a newspaper of general circulation in the county (if there be a newspaper published in the county, otherwise by posting notices in three public places), for sealed bids for furnishing the county with stationery, clothing, bedding, groceries, provisions, drugs, medicines, and all other supplies. All bids shall be on a schedule, showing all articles needed in the several offices and departments prepared by the clerk of the board, shall state separately the price of each article to be furnished, and any person may bid upon any article separately.

In considering such bids, the board may accept or reject all or any of them, or may accept or reject a part of any such bid, preference being given, however, to the lowest responsible bidder. All supplies furnished the county, or any officer thereof, shall be furnished at a price no greater than is specified in the bid which may be accepted by the board.

The board shall annually fix the price at which the county shall be supplied with job printing and blank books, from a schedule prepared by the clerk of the board, showing all blanks and blank books used in the several offices and departments, and also the price of all county advertising; and each county officer shall procure such blank books, job printing, and advertising required for the proper discharge of his official duties, such printing and advertising to be done by such person or newspaper as such county officer may designate, at a price no greater than is so fixed, and certify the bill therefor to the board of supervisors.

A square of advertising shall be two hundred and thirty-four ems nonpareil. No supplies, printing, stationery, or books, shall be procured of any person or firm whose paper has not been published or whose place of business has not been established in the county for one year or more prior to the time for fixing said prices.

22. The board shall cause to be published a semi-annual statement of the financial condition of the county, showing, in detail the expenditures authorized during the preceding six months; and within ten days after each session of the board, a fair statement of all their proceedings.

23. To make and enforce such rules and regulations for the government of their body, the preservation of order, and the transaction of business, as may be necessary.

24. To adopt a seal for the board, a description and impression of which must be filed in the office of the county clerk and of the secretary of state.

25. To license, for purposes of regulation and revenue, all and every kind of business not prohibited by law, and transacted and carried on in such county, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the

collection of the same, by suit or otherwise; provided, that every honorably discharged soldier, sailor, or marine of the United States, who is unable to obtain a livelihood by manual labor, shall have the right to hawk, peddle, and vend any goods, wares, or merchandise except spirituous, malt, vinous, or other intoxicating liquor, without payment of any license, tax, or fee whatsoever, whether municipal, county, or state; and the board of supervisors shall issue to such soldier, sailor, or marine, without cost, a license therefor. The board may provide that any such license shall cease upon the non-payment of such tax, and any person, firm, or corporation transacting or carrying on such business, without such license whenever prescribed, is guilty of a misdemeanor.

26. To provide for the destruction of gophers, squirrels, other wild animals, noxious weeds, and insects injurious to fruit or fruit trees, or vines, or vegetable or plant life.

27. To provide for the prevention of injuries to sheep by dogs, and to tax dogs and direct the application of the tax.

28. To provide, by ordinances not in conflict with the general laws of the State, for the protection of fish and game, and may shorten the season for the taking or killing of fish and game, within the dates fixed by the general state laws, but shall not lengthen the same.

29. To provide for the working of prisoners confined in the county jail, under judgment of conviction of misdemeanor, under the direction of some responsible person, to be appointed by the sheriff, whose compensation shall not exceed one hundred dollars per month, upon the public grounds, roads, streets, alleys, highways, or public buildings, or in such other places as may be deemed advisable, for the benefit of the county.

30. To provide for the burying of the indigent dead.

31. To make and enforce, within the limits of their county all such local police, sanitary, and other regulations as are not in conflict with general laws.

32. To adopt such rules and regulations within their respective counties, with regard to keeping  
Gen. Laws—9.



and storing of every description of gunpowder, Hercules powder, giant powder, or other explosive or cumbustible material, as the safety and protection of the lives and property of individuals may require.

33. To appropriate from the general fund of the county, unless otherwise in this act provided, not to exceed, in counties of the first and second class, the sum of three thousand dollars, and in all other counties the sum of two thousand dollars in any one year, to aid in or carry on the work of inducing immigration thereto, or for the purpose of exhibiting or advertising the agricultural, mineral, manufacturing, or other resources of the county.

34. To enforce, by ordinance, within the limits of their counties, all such regulations concerning the size of wagons and vehicles of all kinds to be used on the roads or highways, and the width of tires on the same, as are not in conflict with general laws.

35. To grant licenses and franchises for constructing, keeping, and taking tolls on roads, bridges, ferries, wharves, chutes, booms, and piers, and to grant franchises along and over the public roads and highways for all lawful purposes, upon such terms and conditions and restrictions as in their judgment may be necessary and proper, and in such manner as to present the least possible obstruction and inconvenience to the traveling public.

36. To grant on such terms, conditions, and restrictions as in their judgment may be necessary and proper, licenses and franchises for taking tolls on public roads or highways, whenever in their judgment the expense necessary to operate or maintain such public roads or highways as free public highways is too great to justify the county in so operating or maintaining them. It shall always be a condition attached to the granting of such licenses and franchises, that such roads or highways shall be kept in reasonable repair by the person or persons to whom such licenses or franchises may be granted.

37. To enact ordinances, and regulations for the construction, alteration, repair, and control of all public roads and highways in the county, unless otherwise provided by law.



38. To levy a special road fund tax, not to exceed two (2) mills on the one dollar of assessed valuation, on all the property in such counties, outside of any incorporated city or town. Such tax shall be in addition to all taxes otherwise provided for, and the fund so created shall be expended for the construction and maintenance of the main public roads or county highways in the several road districts, in proportion to the amount collected from such districts.

39. To encourage under such regulations as they may adopt, the planting and preservation of shade and ornamental trees on the public roads and highways, and on and about the public grounds and buildings of the county, and pay to persons planting and cultivating the same, for every living tree thus planted at the age of four years, a sum not exceeding one dollar.

40. To do and perform all other acts and things, required by law not in this act enumerated, or which may be necessary to the full discharge of the duties of the legislative authority of the county government.

41. To provide by ordinance for the organization and government of districts, to protect and preserve the banks of rivers and streams and lands lying contiguous thereto from injury by overflow or the washing thereof, and to provide for the improvements of said rivers and streams, and prevent the obstruction thereof, and to provide for the assessment, levy, and collections within such districts of a tax therefor.

Sec. 26. The enacting clause of all ordinances of the board shall be as follows: "The board of supervisors of the county of ——— do ordain as follows:" Every ordinance shall be signed by the chairman of the board and attested by the clerk. On the passage of all ordinances the votes of the several members of the board shall be entered on the minutes, and all ordinances shall be entered at length in the "Ordinance Book." No ordinance passed by the board shall take effect within less than fifteen days after its passage, and before the expiration of the said fifteen days the same shall be published, with the names of the members voting for and against the same, for at least one week, in some newspaper published in

the county, if there be one, and if there be none published in the county, then such ordinance shall be posted at the court-house door at least one week. An order entered in the minutes of the board that such ordinance has been duly published or posted shall be *prima facie* proof of such publication or posting.

Sec. 27. The board of supervisors shall have power to direct the sheriff to attend, in person or by deputy, all the meetings of the board, to preserve order, serve notices, subpoenas, citations, or other process, as directed by the board.

Sec. 28. Whenever the board of supervisors of any county shall deem it necessary or important to examine any person as a witness upon any subject or matter within the jurisdiction of such board, or to examine any officer of the county in relation to the discharge of his official duties, as to the receipt or disposition by him of any moneys, or concerning the possession or disbursement by him of any property belonging to the county, or to use, inspect, or examine any books, account, voucher, or document in the possession of such officer or other person, or under his control, relating to the affairs or interests of such county, the chairman of such board shall issue a subpoena, in proper form, commanding such person or officer to appear before such board, at a time and place therein specified, to be examined as a witness; and such subpoena may require such person or officer to produce on such examination all books, papers, and documents in his possession or under his control, relating to the affairs or interests of the county.

Sec. 29. It shall be the duty of the sheriff of the county to whom the subpoena is delivered, to serve the same by reading it to the person named therein, and at the same time to deliver to him a copy thereof, and his official return thereon, of the time and place of such service, shall be *prima facie* evidence thereof.

Sec. 30. Whenever the board of supervisors shall appoint any members of their body a committee upon any subject or matter of which the board has jurisdiction, and has conferred upon such committee power to send for persons and papers, the chairman of such committee shall possess all

the powers and be liable to all the duties herein given to and imposed upon the chairman of the board of supervisors.

Sec. 31. Whenever any person duly subpoenaed to appear and give evidence, or to produce any books and papers, as herein provided, shall neglect or refuse to appear, or to produce such books and papers, as required by such subpoena, or shall refuse to testify before such board or committee, or to answer any questions which a majority thereof shall decide to be proper and pertinent, he shall be deemed in contempt, and it shall be the duty of the chairman of the board, or of the committee, as the case may be, to report the fact to the judge of the superior court of the county, or of the city and county, who shall thereupon issue an attachment in the form usual in the court of which he shall be judge, directed to the sheriff of the county where such witness was required to appear and testify, commanding the said sheriff to attach such person, and forthwith bring him before the judge by whose order such attachment was issued.

Sec. 32. On the return of the attachment and the production of the body of the defendant, the said judge shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a superior court.

Sec. 33. The witnesses summoned to testify on behalf of the county in matters of public concern before the board of supervisors are not entitled to have their fees prepaid; but the board must allow them the reasonable expenses of their attendance.

Sec. 34. The board must provide printed copies of the great register, poll lists, poll books, blank returns and certificates, proclamations of elections, and other appropriate and necessary appliances for holding all elections in the county, and allow reasonable charges therefor, and for the transmission and return of the same to the proper officers.

Sec. 35. Whenever, as canvassers, the board of supervisors have declared the result of an election held in the county, certificates must be, by the county clerk, issued to all persons elected to a county, township, or district office therein, and such other certificates must be made out and transmitted as required by law.

Sec. 36. The board must not, for any purpose, contract debts or liabilities, in any manner or for any purpose, which exceed in any fiscal year the income and revenue provided for such year, except as permitted by the constitution. It shall be the duty of the auditor, at the commencement of each regular session of the board, to lay before it a statement prepared by him of the aggregate amount of allowance against each fund, and of salaries and liabilities fixed by law, paid or payable therefrom since the beginning of the fiscal year, together with a statement of receipts of each fund for that portion of the year already elapsed, and an exact estimate of the revenue for the remainder of the year apportioned to the different funds, based upon the receipts for the corresponding portion of the preceding year. Whenever the board shall have levied the state and county tax for the fiscal year, the auditor's estimates for the remainder of the year shall, as to receipts from property tax, be based upon the assessment roll and tax levy, deducting ten per cent for the anticipated delinquencies. The board shall have no power to make allowances against any funds which, with all allowances previously made, and salaries and liabilities fixed by law payable therefrom, shall exceed the auditor's estimate of revenue for the year, or such proportion thereof as the time already elapsed shall bear to the entire year. Any allowance made contrary to the provisions of this section shall be null and void, and the auditor shall not draw his warrant therefor, nor the treasurer pay the same. When several allowances are made on the same day, they shall be deemed to have been made in the order in which they are entered in the "Allowance Book," and shall be certified in that order by the auditor.

Sec. 37. Whenever the board of supervisors shall adopt plans and specifications for the erection, alteration, construction, or repair of any

public building, bridge, or other public structure, such plans and specifications shall not be altered or changed in any manner whereby the cost of such building, bridge, or structure shall be increased, except by a vote of two-thirds of their number.

Sec. 38. Whenever the board of supervisors shall enter into a contract for the erection, construction, alteration, or repair of any public building, bridge, or other structure, such contract shall not be altered or changed in any manner, unless they shall, by a vote of two-thirds of their number, and with the consent of the contractor, first so order. And whenever any such change or alteration is so ordered, the particular change or alteration shall be specified, in writing, and the cost thereof agreed upon between the board and the contractor. In no case shall the board pay or become liable to pay for any extra work done on, or extra material furnished for, such building or structure.

Sec. 39. No county officer shall, except for his own service, present any claim, account, or demand for allowance against the county, or in any way except in the discharge of his official duty advocate the relief asked in the claim or demand made by any other. Any person may appear before the board and oppose the allowance of any claim or demand made against the county.

Sec. 40. The board of supervisors must not hear or consider any claim in favor of any public officer, person, corporation, company, or association against the county, nor shall the board credit or allow any claim or bill against the county or district fund, unless the same be itemized, giving names, dates and particular services rendered, character of process served, upon whom, distance traveled, where and when, character of work done, number of days engaged, supplies or materials furnished, to whom, and quantity and price paid therefor, duly verified to be correct, and that the amount claimed is justly due, and is presented and filed with the clerk of the board within a year after the last item of the account or claim accrued. If, in case of any claim which requires itemizing, the board do not hear or consider the same because it is not itemized, they shall cause notice to

be given to the claimant or his attorney of that fact, and give time to have the claim itemized and reverified.

Sec. 41. No account shall be passed upon by the board, unless made out as prescribed in this and the preceding section and filed with the clerk three days prior to the time of the meeting of the board at which it is asked to be allowed.

Such demand shall be made out in form substantially as follows:

Clerk's memoranda, No. ———.

——— Fund.

Demand of ———, dated ———, in sum of \$——, for ———. Allowed by the board of supervisors ———, 18——, in the sum of \$——.

Attest: ———, Clerk of Board.

.....  
Demand of .....

No.———. ——— Fund———. Demand on the treasury of the County of ———, State of California, for the sum of ——— dollars, being for ———.

Date.	Items.	Dollars.	Cents.
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
		\$.....	.....

Expenditures authorized and approved by me. \_\_\_\_\_

State of California, {  
County of ———. } ss.

The undersigned being duly sworn, says: That the above claim and the items as therein set out are true and correct; that no part thereof has been heretofore paid, and that the amount therein is justly due this claimant, and that the same is presented within one year after the last item thereof has accrued.

Subscribed and sworn to before me this — day of —.

\_\_\_\_\_, County Clerk.



Allowed by Board of Supervisors, —, 18—, in sum of \$—, payable out of — Fund.

Attest: —, Clerk of Board of Supervisors.

Countersigned: —, Chairman Board of Supervisors.

Warrant No. —.

Allowed —, 18—, for the sum of \$—, payable out of — Fund.

—, County Auditor.

No. —. Registered —, 189—,

—, County Treasurer.

Said demand shall be approved before filing by the officer who directed such expenditure. If said demand be allowed by the board, the clerk of the board shall detach and file the memorandum, and shall indorse on such demand "allowed by the Board of Supervisors," together with the date of such allowance, the amount of such allowance and from what fund; shall attest the same with his signature, and, when countersigned by the chairman, shall transmit the same to the Auditor, who shall, in case he allows said demand, indorse upon it "allowed," together with the amount for which it is allowed, from what fund, date and number of the warrant, and shall, in attestation thereof, affix his signature thereto and deliver the same to the claimant; and said demand, when so allowed and signed by the Auditor, shall constitute the warrant on the treasury, within the meaning of this act.

Sec. 42. When the board find that any claim presented is not payable by the county, or is not a proper county charge, it must be rejected; and said rejection shall be plainly indorsed on said claim; if they find it to be a proper county charge, but greater in amount than is justly due, the board may allow the claim in part, and draw a warrant for the portion allowed, on the claimant filing a receipt in full for his account. If the claimant is unwilling to receive such amount in full payment, the claim may again be considered at the next regular session of the board, but not afterward.

Sec. 43. If the board refuse, or neglect to allow or reject a claim or demand for ninety days, after the same has been filed with the clerk, such refusal or neglect may, at the option of the claim-



ant, be deemed equivalent to final action and rejection on the ninetieth day, and a claimant dissatisfied with the rejection of his claim or demand, or with the amount allowed him on his account, may sue the county therefor at any time within six months after the final action of the board, but not afterward; and if, in such action, judgment is recovered for more than the board allowed, on presentation of a certified copy of the judgment, the board must allow and pay the same, together with the costs adjudged; but if the more is recovered than the board allowed, the board must pay the claimant no more than was originally allowed.

Sec. 44. Warrants drawn by order of the Supervisors on the county treasury for the current expenses during each year, must specify the liability for which they are drawn, and when they accrued, and must be paid in the order of the presentation to the treasurer. If the fund is insufficient to pay any warrant, it must be registered, and thereafter paid in the order of registration.

Sec. 45. No member of the board must be interested, directly or indirectly, in any property purchased for the use of the county, nor in any purchase or sale of property belonging to the county, nor in any contract made by the board, or other person, on behalf of the county, for the erection of public buildings, the opening or improvement of roads, or the building of bridges, or for any purpose, or act as a member of a committee or board of reviewers.

Sec. 46. Whenever an application is made to the board for an order, franchise or license relating to any toll road, bridge, ferry, wharf, chute, pier or other subject over which the board has jurisdiction, in which a majority of the board are interested, the application, by order of the board, must be transferred to the superior court of the county. The clerk of the board must thereupon certify the application, and all orders and papers relating thereto, to said superior court, and thereafter the said superior court shall have full jurisdiction to hear and determine the application.

Sec. 47. All public notices of proceedings of or to be had before the board, not otherwise

specially provided for, must be posted at the courthouse door, and two other public places in the county.

Sec. 48. The board must require the assessor to report to the state board of equalization, annually, a true statement of the agricultural and industrial pursuits and products of the county, with such other statistical information as they may direct.

Sec. 49. All claims against the county, presented by members of the board of supervisors for per diem and mileage, or other service rendered by them, must be itemized and verified as other claims, and must state that the service has been actually rendered, and before allowance such claims must be presented to the district attorney, who must indorse thereon, in writing, his opinion as to the legality thereof. If the district attorney declare the claim, or any part thereof, illegal, he must state specifically wherein it is illegal, and the claim, or such part, must then be rejected by said board.

Sec. 50. The board must have prepared by the clerk, and when he is not also auditor, then by that officer, and under their direction, prior to their annual meeting for levying taxes, a statement showing:

1. The indebtedness of the county, funded and floating, stating the amount of each class, and the rate of interest borne by such indebtedness, or any part thereof.

2. A concise description of all property owned by the county, with an approximate estimate of the value thereof, and the amount of cash in the county treasury and its several funds.

Sec. 51. The board must receive from the United States, or other sources, lands and other property granted or donated to the county for the purpose of aiding in the erection of county buildings, roads, bridges or other specific purposes, and may use the same therefor, and may provide for the sale of the same, and the application of the proceeds thereof.

Sec. 52. The board may provide for widening, deepening, straightening, removing obstructions from and otherwise improving all streams and washes within the county and also protecting the

banks and adjacent lands from overflow of such streams or washes, when the same are not declared by law to be, and in fact are not, navigable for commercial purposes, the overflow of which interferes with highways; and provide regulations for the use, repair, and control thereof; but no regulations of the board, nor improvements directed, must in any manner interfere with the private rights or privileges of riparian owners, miners or others. Whenever, in the opinion of the board of supervisors, the general fund is insufficient to defray the costs of the improvements provided for under this section, they may levy a tax or contract a bonded indebtedness therefor in the manner provided by this act.

Sec. 53. Any supervisor who refuses or neglects to perform any duty imposed on him, without just cause therefor, or who willfully violates any law provided for his government as such officer, or fraudulently or corruptly performs any duty imposed on him, or willfully, fraudulently or corruptly attempts to perform an act, as supervisor, unauthorized by law, in addition to the penalty provided in the Penal Code, forfeits to the county five hundred dollars for every such act, to be recovered on his official bond, and is further liable on his official bond, to any person injured thereby, for all damages sustained.

Sec. 54. No person is eligible to a county, district or township office, who, at the time of his election, is not of the age of twenty-one years, a citizen of the state, and an elector of the county, district, or township in which the duties of the office are to be exercised; provided, that any woman who is of the age of twenty-one years, a citizen of the state, and a resident of the county or district, shall be eligible to the office of superintendent of public schools, school trustee or member of the county board of education; and provided further, that no person shall hereafter be eligible to the office of district attorney who has not been admitted to practice in the supreme court of the state of California.

Sec. 55. The officers of a county are a sheriff, a county clerk, an auditor, a recorder, a license collector, a tax collector, who shall be ex-officio license collector, a district attorney, an assessor,

a treasurer, a superintendent of schools, a public administrator, a coroner, a surveyor, the members of the board of supervisors and such other officers as may be provided by law. In counties where the board of supervisors by proper ordinance so elect, except as otherwise provided in this act, the duties of certain of the above-mentioned officers are hereby consolidated as follows: sheriff and tax collector; auditor and recorder; county clerk, auditor and recorder; county clerk and recorder; county clerk and auditor; treasurer and tax collector; assessor and tax collector; public administrator and coroner. In counties where the duties of said officers have been, or may hereafter be, consolidated in either manner above designated, the board of supervisors thereof, by proper ordinance, may elect to separate the duties so consolidated, and reconsolidate them in any other manner above provided, or may separate said duties without reconsolidation, and provide that the duties of each office shall be performed by a separate person, whenever, in their discretion, the public interest will be best subserved thereby. When offices are united and consolidated, the person elected to fill the offices so united and consolidated must take the oath and give the bond required for each, discharge all the duties pertaining to each, and receive the compensation of the offices consolidated.

Sec. 56. The officers of a township are two justices of the peace, two constables and such subordinate officers as are provided by law. In townships containing cities in which city justices or recorders are elected, there shall be but one justice of the peace; except as hereinafter otherwise provided, and in townships having a population less than four thousand, there shall be but one justice of the peace and one constable. The board of supervisors of each county, as public convenience may require, shall divide their respective counties into townships for the purpose of electing justices of the peace and constables. But the provisions of this section shall not affect any present incumbent of the office of justice of the peace or constable.

Sec. 57. Whenever notice is required by law to be published in a newspaper by any county or

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township officer, the person for whom the notice is to be given shall pay to such officer, if required, the fees for such publication, in advance. And failure to publish any notice required by law pertaining to the duties of his office, shall be a misdemeanor.

Sec. 58. All elective county and township officers, and city justices of the peace, except otherwise provided for in this act, shall be elected at the general election at which the Governor is elected, and shall take office at twelve o'clock meridian on the first Monday after the first day of January next succeeding their election. All officers elected under the provisions of this act shall hold office until their successors are elected or appointed and qualified. Supervisors shall be elected at the general election prior to expiration of the term of the incumbent. The supervisors of any county created after the first day of January, eighteen hundred and ninety-three, shall, within six months after the first general election succeeding the creation of such county, classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire in two years from such general election, and the term of office of the class having the lesser number shall terminate in four years from such general election.

Sec. 59. Every county, township, or district officer, except a supervisor or judicial officer, may appoint as many deputies as may be necessary for the prompt and faithful discharge of the duties of his office. Such appointment must be made in writing, and filed in the office of the county clerk; and until such appointment is so made and filed, and until such deputy shall have taken the oath of office, no one shall be or act as such deputy.

Sec. 60. Whenever the official name of any principal officer is used in any law conferring power, or imposing duties or liabilities, it includes deputies.

Sec. 61. All county officers must have their offices at the county seat, and the sheriff, clerk, recorder, auditor, treasurer and district attorney must keep their offices open for the transaction

of business from nine o'clock a. m. until five o'clock p. m., non-judicial days excepted.

Sec. 62. Whenever, except in criminal prosecutions, any special penalty, forfeiture or liability is imposed on any officer for non-performance or mal-performance of official duties, the liability therefor attaches to the official bond of such officer, and to the principal and sureties thereon.

Sec. 63. Every officer mentioned in section fifty-five, and his deputies, and every justice of the peace, may administer and certify oaths.

Sec. 64. A county or township officer shall in no case absent himself from the state for a period of more than sixty days in any one year, and for no period without the consent of the board of supervisors of the county, except when on business for the state: provided, that in case of illness or urgent necessity, the board of supervisors may, on a proper showing of such illness or urgent necessity, extend the time herein limited, for the absence of any such officer, not to exceed six months.

Sec. 65. Sheriffs, clerks and constables, and their deputies, are prohibited from practicing law, or acting as attorneys or counselors at law, in the counties where they reside and hold office, or from having as a partner a lawyer, or any one who acts as such, and no county officer, or his deputy, except district attorneys and treasurers, shall be eligible to the office of notary public, or perform the duties of the same.

Sec. 66. The board of supervisors of each county shall, on or before the first Monday in September, preceding the election of the following officers, prescribe the amount in which said officers must execute official bonds: treasurer, county clerk, auditor, sheriff, tax collector, district attorney, recorder, assessor, surveyor, superintendent of schools, public administrator, coroner, justice of the peace and constable. The judge or judges of the superior court shall, on or before the said first Monday of September, prescribe the amount in which each member of the board of supervisors must execute an official bond before entering upon the discharge of the duties of his office. The bonds and sureties of such officers must, before the bonds can be recorded and filed, be approved



by the judge, or judges, if there be more than one, of the superior court. All persons offered as sureties on official bonds may be examined on oath touching their qualifications, and no person can be admitted as surety on any such bond unless he is a resident and freeholder or householder within the state, and is worth in real and personal property, or both, situate in this state, the amount of his undertaking, over and above all sums for which he is already liable, exclusive of property exempt from execution and forced sale. All official bonds shall be recorded in the office of the county recorder, and then filed and kept in the office of the county clerk. The official bond of the county clerk shall, after being recorded, be filed and kept in the office of the county treasurer. The tax collector shall also before qualifying give a bond as license collector in such sum as may be fixed by the board of supervisors, to be approved as herein provided.

### COUNTY TREASURER.

Sec. 67. The county treasurer must:

1. Receive all moneys belonging to the county, and all other moneys by law directed to be paid to him, safely keep the same, and apply and pay them out, rendering the account thereof as required by law.
2. File and keep the certificates of the auditor delivered to him when moneys are paid into the treasury.
3. Keep an account of the receipt and expenditure of all such moneys, in books provided for the purpose, in which must be entered the amount, the time when, from whom, and on what account all moneys were received by him; the amount, time when, to whom, and on what account all disbursements were made by him.
4. So keep his books that the amount received and paid out on account of separate funds or specific appropriations are exhibited in separate and distinct accounts, and the whole receipts and expenditures shown in one general or cash account.
5. Enter no moneys received for the current year on his account with the county for the past fiscal year, until after his annual settlement for



the past year has been made with the county auditor.

6. Disburse the county moneys only on county warrants, issued by the county auditor, except on settlement with the state.

7. Disburse the moneys in the treasury on such warrants only when they are based on orders of the board of supervisors, or upon order of the superior court, or as otherwise provided by law.

Sec. 68. He must receive no money into the treasury unless accompanied by the certificate of the auditor, provided for in section one hundred and eleven.

Sec. 69. When any money is paid to the county treasurer he must give to the person paying the same a receipt therefor, which must forthwith be deposited with the county auditor, who must charge the treasurer therewith, and give the person paying the same a receipt.

Sec. 70. When a warrant is presented for payment, if there is money in the treasury for that purpose, he must pay the same and write on the face thereof "Paid," the date of payment, and sign his name thereto.

Sec. 71. When any warrant is presented to the treasurer for payment, and the same is not paid for want of funds, the treasurer must indorse thereon "Not paid for want of funds," with the date of presentation, and sign his name thereto, and from that time until paid the warrant bears five per cent. interest per annum.

Sec. 72. When there are sufficient moneys in the treasury to pay the warrants drawing interest, the treasurer must give notice in some newspaper published in the county, or if none is published therein, then by written notice posted upon the courthouse door, stating therein that he is ready to pay such warrants. From the first publication or posting of such notice, such warrants cease to draw interest.

Sec. 73. In advertising warrants under the provisions of the preceding section in any newspaper, the treasurer must not publish the warrants in detail, but give notice only that county warrants presented for payment prior to such a date, stated in the notice, are payable. When a part only of the warrants presented for payment on the same

day are payable, the treasurer must designate such payable warrants in the advertisement.

Sec. 74. Warrants drawn on the treasury, and properly attested, are entitled to preference as to payment out of moneys in the treasury properly applicable to such warrants, according to the order in which they were presented. The time of presenting such warrants must be noted by the treasurer, and upon receipt of moneys into the treasury not appropriated, he must set apart the same, or so much thereof as is necessary for the payment of such warrants.

Sec. 75. Should such warrants not be again presented for payment within sixty days from the time the notice hereinbefore provided for is given, the fund set aside for the payment of the same must be by the treasurer applied to the payment of unpaid warrants next in order of registry. The board of supervisors may, on application and presentation of warrants properly indorsed, which have been advertised, pass an order directing the treasurer to pay them out of any money in the treasury not otherwise appropriated.

Sec. 76. When the treasurer pays any warrant upon which any interest is due, he must note on the warrant the amount of interest paid thereon and enter on his account the amount of such interest distinct from the principal.

Sec. 77. The treasurer must settle his accounts relating to the collection, care and disbursement of public revenue, of whatsoever nature and kind, with the auditor, on the first Monday of each month. For the purpose of making such settlement, he must make a statement, under oath, of the amount of money or other property received prior to the period of such settlement, the sources whence the same was derived, the amount of payments or disbursements, and to whom, with the amount remaining on hand. He must, in such settlements, deposit all warrants redeemed by him, and take the auditor's receipt therefor. He must also make a full settlement of all accounts with the auditor, annually, on the first Monday of January, in the presence of the supervisors.

Sec. 78. Each county treasurer must make a detailed report, at every regular meeting of the board of supervisors of his county, of all moneys

received by him, and the disbursement thereof, and of all debts due to and from the county, and of all other proceedings in his office, so that the receipts into the treasury and the amount of disbursements, together with the debts due to and from the county, may distinctly appear.

Sec. 79. If any county treasurer neglect or refuse to settle or report, as required in sections seventy-seven and seventy-eight, he forfeits and must pay to the county the sum of five hundred dollars for every such neglect or refusal, and the board of supervisors must institute suits for the recovery thereof.

Sec. 80. If the district attorney refuse or neglect to account for and pay over money received by him, as required by the fifth subdivision of section one hundred and thirty-two, he shall be liable for such refusal or neglect upon his official bond, and the county treasurer must bring an action against him for the recovery thereof, in the name of the county, and may recover in such action, in addition to the amount so received, fifty per cent. thereon by way of damages. And no order of the board of supervisors shall be necessary to bring such action. His reasonable expenses, including attorney's fees, shall be a county charge.

Sec. 81. The treasurer, upon receiving from the coroner, or justice of the peace acting as coroner, money found on a dead body, must place it to the credit of the county; on receiving other property in like manner, he must, within thirty days, sell it at public auction, upon reasonable public notice, and must, in like manner, place the proceeds to the credit of the county. All said moneys must be kept in a separate fund.

Sec. 82. If the money in the treasury is demanded within six years, by the legal representatives of the decedent, the treasurer must pay it to them, after deducting the fees and expenses of the coroner, and of the county, in relation to the matter, or the same may be so paid at any time thereafter, upon the order of the board of supervisors.

Sec. 83. The county treasurer must keep all moneys belonging to this state, or to any county of this state, in his own possession, until dis-

bursed according to law. He must not place the same in the possession of any person, to be used for any purpose; nor must he loan, or in any manner use, or permit any person to use the same, except as provided by law; but nothing in this section prohibits him from making special deposits for the safe keeping of the public moneys; but he shall be liable therefor on his official bond.

Sec. 84. Whenever an action, based upon official misconduct, is commenced against any county treasurer, the supervisors may, in their discretion, suspend him from office until such suit is determined, and may appoint some person to fill the vacancy, who shall qualify and give such bond as may be required by the board of supervisors.

Sec. 85. In case of the death of any county treasurer, his legal representatives must deliver up to the person appointed to fill the vacancy occasioned by such death, all official moneys, books, accounts, papers and documents which are or may come into their possession.

Sec. 86. The books, accounts and vouchers of the treasurer are at all times subject to the inspection and examination of the board of supervisors and grand jury.

Sec. 87. The treasurer must permit the chairman of the board of supervisors, district attorney and auditor to examine his books and count the money in the treasury, whenever they may wish to make an examination or counting.

### SHERIFF.

Sec. 88. "Process," as used in this act, includes all writs, warrants, summons and orders of courts of justice, or judicial officers. "Notice" includes all papers and orders (except process) required to be served in any proceeding before any court, board or officer, or when required by law to be served independently of such proceeding.

Sec. 89. The sheriff must:

1. Preserve the peace.
2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit, or who have committed, a public offense.
3. Prevent and suppress any affrays, breaches

of the peace, riots and insurrections which may come to his knowledge.

4. Attend all superior courts held within his county, and obey all lawful orders and directions of all courts held within his county.

5. Command the aid of as many male inhabitants of his county as he may think necessary in the execution of these duties.

6. Take charge of and keep the county jail, and the prisoners therein.

7. Release on the record all attachments of real property, when the attachment placed in his hand has been released or discharged.

8. Indorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time when received.

9. Serve all process and notices in the manner prescribed by law.

10. Certify, under his hand, upon process or notices, the manner and time of service, or if he fails to make service, the reason of his failure, and return the same without delay.

Sec. 90. When process or notices are returnable to another county, he may inclose such process or notice in an envelope, addressed to the officer from whom the same emanated, and deposit it in the postoffice, prepaying postage.

Sec. 91. The return of the sheriff upon process or notices is prima facie evidence of the facts in such return stated.

Sec. 92. If a sheriff does not return a process or notice in his possession, with the necessary indorsement thereon, without delay, he is liable to the party aggrieved for the sum of two hundred dollars, and for all damages sustained by him.

Sec. 93. If the sheriff to whom a writ of execution is delivered neglects or refuses, after being required by the creditor or his attorney, the fees having first been paid or tendered, to levy upon or sell any property of the party charged in the writ, which is liable to be levied upon and sold, he is liable to the creditor for the value of such property.

Sec. 94. If he neglects or refuses to pay over,

on demand, to the person entitled thereto, any money which may come into his hands by virtue of his office (after deducting all legal fees), the amount thereof, with twenty-five per cent. damages, and interest at the rate of ten per cent. per month, from the time of demand, may be recovered by such person.

Sec. 95. A sheriff who suffers the escape of a person arrested in a civil action, without the consent or connivance of the party in whose behalf the arrest or imprisonment is made, is liable as follows:

1. When the arrest is upon an order to hold to bail, or upon a surrender in exoneration of bail before judgment, he is liable to the plaintiff as bail.

2. When the arrest is on an execution or commitment to enforce the payment of money, he is liable for the amount expressed in the execution or commitment.

3. When the arrest is on an execution or commitment other than to enforce the payment of money, he is liable for the actual damages sustained.

4. Upon being sued for damages for an escape or rescue, he may introduce evidence in mitigation and exculpation.

Sec. 96. He is liable for the rescue of a person arrested in a civil action, equally as for an escape.

Sec. 97. An action cannot be maintained against the sheriff for a rescue, or for an escape of a person arrested upon an execution or commitment, if, after his rescue or escape, and before the commencement of the action, the prisoner returns to the jail, or is retaken by the sheriff.

Sec. 98. No direction or authority by a party or his attorney to a sheriff, in respect to the execution of process or return thereof, or to any act or omission relating thereto, is available to discharge or excuse the sheriff from a liability for neglect or misconduct, unless it is contained in a writing, signed by the attorney of the party, or by the party, if he has no attorney.

Sec. 99. When the sheriff is committed, under an execution or commitment, for not paying over money received by him by virtue of his office, and

remains committed for sixty days, his office is vacant.

Sec. 100. A sheriff or other ministerial officer is justified in the execution of, and must execute, all process and orders regular on their face, and issued by competent authority, whatever may be the defect in the proceedings upon which they were issued.

Sec. 101. The officer executing process must then, and at all times subsequent, so long as he retains it, upon request, show the same, with all papers attached, to any person interested therein.

Sec. 102. The sheriff in attendance upon court must act as the crier thereof, call the parties and witnesses, and all other persons bound to appear at the court, and make proclamation of the opening and adjournment of the court, and of any other matter under its direction.

Sec. 103. Service of a paper, other than process, upon the sheriff may be made by delivering it to him or to one of his deputies, or to a person in charge of the office during office hours; or, if no such person be there, by leaving it in a conspicuous place in the office. When any process remains with the sheriff unexecuted, in whole or in part, at the time of his death, resignation of office, or at the expiration of his term of office, said process shall be executed by his successor or successors in office; and when the sheriff sells real estate, under and by virtue of an execution or order of court, he or his successors in office shall execute and deliver to the purchaser or purchasers all such deeds and conveyances as are required by law and necessary for the purpose, and such deeds and conveyances shall be as valid in law as if they had been executed by the sheriff who made the sale.

Sec. 104. When the sheriff is a party to an action or proceeding, the process and orders therein, which it would otherwise be the duty of the sheriff to execute, must be executed by the coroner of the county; provided, when any action is begun against the sheriff, all process and orders may be served by any person, a citizen of the United State over the age of eighteen years, in the manner provided in the Code of Civil Procedure.

Sec. 105. Process or orders in an action or pro-



ceeding may be executed by a person residing in the county, designated by the court, or the judge thereof, and denominated an elisor, in the following cases:

1. When the sheriff and coroner are both parties;

2. When either of these officers is a party, and the process is against the other; and

3. When either of these officers is a party, and there is a vacancy in the office of the other, or where it appears, by affidavit, to the satisfaction of the court in which the proceeding is pending, or the judge thereof, that both of these officers are disqualified, or by reason of any bias, prejudice or other cause, would not act promptly or impartially.

When process is delivered to an elisor, he must execute and return it in the same manner as the sheriff is required to execute similar process. Whenever process is executed, or any act performed by a coroner or elisor, in the cases provided by law in that behalf, such coroner or elisor shall be entitled to receive a reasonable compensation, to be fixed by the court, to be paid by the plaintiff in case of the summoning of jurors to complete the panel, and by the person or party requiring the service in all other cases in private action. If rendered at the instance of the people, it shall be audited and paid as a county charge.

Sec. 106. The sheriff must perform such other duties as are required by law.

## COUNTY CLERK.

Sec. 107. The county clerk must:

1. Take charge of and safely keep, or dispose of, according to law, all books, papers and records which may be filed or deposited in his office.

2. Act as clerk of the board of supervisors and as clerk of the superior court, and attend each session thereof, and upon the judge at chambers, when required.

3. Issue all process and notices required to be issued; enter a synopsis of all orders, judgments and decrees proper to be entered, unless the court shall order them to be entered at length; keep in the superior court a docket, in which must be

entered the title of each caus, with the date of its commencement; a memorandum of every subsequent proceeding therein, with date thereof, and a list of all the fees charged.

4. Keep for the superior court an index of all suits, labeled "General Index—Plaintiffs," each page of which must be divided into seven columns, under their respective heads, alphabetically arranged, as follows: "Number of Suit," "Plaintiffs," "Defendants," "Date of Judgment," "Number of Judgment," "Page of Entry of Judgment of Judgment Book," "Page of Minute Book"; also an index, labeled "General Index—Defendants," each page of which must be divided into seven columns, under their respective heads, alphabetically arranged, as follows: "Number of Suit," "Defendants," "Plaintiffs," "Date of Judgment," "Number of Judgment," "Page of Entry of Judgment in Judgment Book," "Page in Order Book"; keep an index of the names of persons naturalized.

Sec. 108. He must keep such other records and perform such other duties as are prescribed by law.

### COUNTY AUDITOR.

Sec. 109. The auditor must issue warrants as provided in section forty-one, on the county treasurer, in favor of all persons entitled thereto, in payment of all claims and demands chargeable against the county, which have been legally examined, allowed and ordered paid by the board of supervisors. The auditor must also issue warrants on the county treasurer for all debts and demands against the county, when the amounts are fixed by law, or are authorized by law to be allowed by some person or tribunal other than the board of supervisors.

Sec. 110. All warrants must distinctly specify the liability for which they are drawn, and when it accrued.

Sec. 111. The auditor must examine and settle the accounts of all persons or officers indebted to the county, or holding moneys payable into the county treasury, and must certify the amount to the treasurer, and upon the presentation and filing of the treasurer's receipt therefor, give to

such persons a discharge, and charge the treasurer with the amount received by him.

Sec. 112. The auditor must keep accounts current with the treasurer, and when any person deposits with the auditor any receipt given by the treasurer for any money paid into the treasury, the auditor must file such receipt, and charge the treasurer with the amount thereof.

Sec. 113. All warrants issued by the auditor during each year, commencing with the first Monday after the first day of January, must be numbered consecutively, and the number, date and amount of each, and the name of the person to whom payable, and the purpose for which drawn, must be stated thereon; and they must, at the time they are issued, be registered by him, and after such warrants have remained uncalled for for two years they shall be canceled.

Sec. 114. The auditor must, between the first and tenth day of each month, examine the books of the treasurer and see that the same have been correctly kept.

Sec. 115. The chairman of the board of supervisors, district attorney and auditor, must, at least once in each month, count the money in the county treasury, and make and verify in duplicate, statements showing:

1. The amount of money that ought to be in the treasury.

2. The amount and kind of money actually therein.

Sec. 116. They must file one of the statements in the office of the county clerk, and the auditor must post and maintain the other in his office for at least one month thereafter.

Sec. 117. The auditor and treasurer of each county must, on the first Monday in February, May, August and November, and at such other times as the board of supervisors may require, make a joint statement to the board of supervisors, showing the whole amount of collections (stating particularly the source of each portion of the revenue) from all sources paid into the county treasury; the funds among which the same were distributed, and the amount to each; the total amount of warrants drawn and paid, and on what fund; the total amount of warrants drawn and

unpaid, the accounts or claims audited or allowed and unpaid, and the fund out of which they are to be paid; and, generally, make a full and specific showing of the financial condition of the county. The auditor shall prepare and submit to the board of supervisors, each year, a statistical report, showing in compendious form all financial transactions of the county, yearly, exhibiting separately the receipts and expenditures by or on account of each office, board, commission, institution, court and road district and school district, and classify the principal items of income and expenditure, according to a plan to be approved by the board of supervisors, and the board of supervisors shall publish the same.

Sec. 118. The auditor must discharge such other duties as are required by law.

### COUNTY RECORDER.

Sec. 119. The recorder must procure such books for records as the business of his office requires, but orders for the same must first be obtained from the board of supervisors. The books used may contain printed forms of deeds, mortgages or other instruments of general use. He has the custody of, and must keep all books, records, maps and papers deposited in his office.

Sec. 120. He must, upon the payment of his fees for the same, record, separately, in large and well-bound separate books, in a fair hand:

1. Deeds, grants, transfers and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, and leases which have been acknowledged and approved.

2. Mortgages of personal property.

3. Certificates of marriage and marriage contracts.

4. Wills admitted to probate.

5. Official bonds.

6. Notice of mechanics' lien.

7. Transcripts of judgments, which by law are made liens upon real estate.

8. Notices of attachments upon real estate.

9. Notices of the pendency of an action affecting real estate, the title thereto, or the possession thereof.

10. Instruments describing or relating to the separate property of married women.

11. Births and deaths; and,

12. Such other writings as are required or permitted by law to be recorded.

Sec. 121. Every recorder must keep:

1. An index of deeds, grants and transfers, labeled "Grantors," each page divided into four columns, headed, respectively: "Names of Grantors," "Names of Grantees," "Date of Deeds, Grants or Transfers" and "Where Recorded."

2. An index of deeds, labeled "Grantees," each page divided into four columns, headed, respectively: "Names of Grantees," "Names of Grantors," "Date of Deeds, Grants or Transfers," and "Where Recorded."

3. Two indices of mortgages, labeled, respectively: "Mortgagors of Real Property," "Mortgagors of Personal Property," with the pages thereof divided into five columns, headed, respectively: "Names of Mortgagors," "Names of Mortgagees," "Date of Mortgages," "Where Recorded," "When Discharged."

4. Two indices of mortgages, labeled, respectively: "Mortgagees of Real Property," "Mortgagees of Personal Property," with the pages thereof divided into five columns, headed, respectively: "Names of Mortgagees," "Names of Mortgagors," "Date of Mortgages," "Where Recorded," "When Discharged."

5. Two indices of releases of mortgages, labeled respectively: "Releases of Mortgages of Real Property—Mortgagors," "Releases of Mortgages of Personal Property—Mortgagors," with pages thereof divided into six columns, headed, respectively: "Parties Releasing," "To Whom Releases are Given," "Date of Releases," "Where Releases are Recorded," "Date of Mortgages Released," "Where Mortgages Released are Recorded."

6. Two indices of releases of mortgages, labeled, respectively: "Releases of Mortgages of Real Property—Mortgagees," "Releases of Mortgages of Personal Property—Mortgagees," with pages thereof divided into four columns, headed, respectively: "Parties Whose Mortgages are Released," "Parties Releasing," "Date of Releases," "Where Recorded."

7. An index of powers of attorney, labeled: "Powers of Attorney," each page divided into five columns, headed, respectively: "Names of Parties Executing the Powers," "To Whom Powers are Executed," "Date of Powers," "Date of Recording," "Where Powers are Recorded."

8. An index of leases, labeled: "Leases—Lessors," each page divided into four columns, headed, respectively: "Names of Lessors," "Names of Lessees," "Date of Leases," "When and Where Recorded."

9. An index of leases, labeled: "Leases—Lessees," each page divided into four columns, headed, respectively: "Names of Lessees," "Names of Lessors," "Date of Leases," "When and Where Recorded."

10. An index of marriage certificates, labeled: "Marriage Certificates—Men," each page divided into six columns, headed, respectively: "Men Married," "To Whom Married," "When Married," "By Whom Married," "Where Married," "Where Certificates are Recorded."

11. An index of marriage certificates, labeled: "Marriage Certificates—Women," each page divided into six columns, headed, respectively: "Women Married" (and under this head placing the family names of the women), "To Whom Married," "When Married," "By Whom Married," "Where Married," "Where Certificates are Recorded."

12. An index of assignments of mortgages and leases, labeled: "Assignments of Mortgages and Leases—Assignors," each page divided into five columns, headed, respectively: "Assignors," "Assignees," "Instruments Assigned," "Date of Assignment," "When and Where Recorded."

13. An index of assignments of mortgages and leases, labeled: "Assignments of Mortgages and Leases—Assignees," each page divided into five columns, headed, respectively: "Assignees," "Assignors," "Instruments Assigned," "Date of Assignment," "When and Where Recorded."

14. An index of wills, labeled: "Wills," each page divided into four columns, headed, respectively: "Names of Testators," "Date of Wills," "Date of Probate," "When and Where Recorded."

15. An index of official bonds, labeled: "Offi-



cial Bonds," each page divided into five columns, headed respectively: "Names of Officers," "Names of Offices," "Date of Bonds," "Amount of Bonds," "When and Where Recorded."

16. An index of notices of mechanics' liens, labeled: "Mechanics' Liens," each page divided into three columns, headed, respectively: "Parties Against Whom Claimed," "Parties Claiming Liens," "Notices—When and Where Recorded."

17. An index to transcripts of judgments, labeled: "Transcripts of Judgments," each page divided into seven columns, headed, respectively: "Judgment Debtors," "Judgment Creditors," "Amount of Judgments," "Where Recovered," "When Recovered," "When Transcript Filed," "When Judgment Satisfied."

18. An index of attachments, labeled: "Attachments," each page divided into six columns, headed, respectively: "Parties Against Whom Attachments are Issued," "Parties Issuing Attachments," "Notices of Attachments," "When Recorded," "Where Recorded," "When Attachments Discharged."

19. An index of notices of the pendency of actions, labeled, "Notices of Actions," each page divided into three columns, headed, respectively, "Parties to the Action," "Notices—When Recorded," "Where Recorded."

20. An index of the separate property of married women, labeled: "Separate Property," each page divided into five columns, headed, respectively: "Names of Married Women," "Names of Their Husbands," "Nature of Instruments Recorded," "When Recorded," "Where Recorded."

21. An index to the register of births and deaths.

22. Such other books of record and indices as are or may be required by law.

23. An index of decrees of distribution in probate, labeled: "Decrees of Distribution," divided into six columns, headed, respectively: "Whose Estate," "Name of Administrator," "Names of Distributees," "Date of Decree," "In What Court," "Where Recorded."

Sec. 122. The Recorder must keep in his office a book, to be called "Certificates of Sales," and record therein all certificates of sales of real estate



sold under execution, or under order made in any judicial proceeding. He must also prepare an index thereto, in which, in separate columns, he must enter the names of the plaintiff in the execution, the defendant in the execution, the purchaser at the sale, and the date of the sale.

Sec. 123. The Recorder must file and record with the record of deeds, grants, and transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property, any part of which is situate in the county of which he is Recorder.

Sec. 124. Every such certified copy of partition, from the time of filing the same with the Recorder for record, imparts notice to all persons of the contents thereof; and subsequent purchasers, mortgagees, and lienholders purchase and take with like notice and effect as if such copy of decree was a duly recorded deed, grant or transfer.

Sec. 125. The Recorder may keep in the same volume any two or more of the indices mentioned in section one hundred and twenty-one; but the several indices must be kept distinct from each other, and the volume distinctly marked on the outside in such a way as to show all the indices kept therein. The names of the parties in the first column in the several indices must be arranged in alphabetical order, and when a conveyance is executed by a Sheriff, the name of the Sheriff and the party charged in the execution must both be inserted in the index; and when an instrument is recorded to which an executor, administrator, or trustee is a party, the name of such executor, administrator, or trustee, together with the name of the testator, or intestate, or party for whom the trust is held, must be inserted in the index.

Sec. 126. When any instrument, paper, or notice, authorized by law to be recorded, is deposited in the Recorder's office for record, the Recorder must indorse upon the same the time when it was received, noting the year, month, day, hour, and minute of its reception, the amount of fees for recording, and must record the same without delay, together with the acknowledgments, proofs, and certificates, written upon or annexed to the same, with the plats, surveys, schedule, and other papers thereto annexed, in the order in which the

same were received for record, and must note at the foot of the record the exact time of its reception, and the name of the person at whose request it was recorded.

Sec. 127. He must also indorse upon each instrument, paper, or notice the time when, the book and pages in which it is recorded, and must thereafter deliver it to the party leaving the same for record, or upon his order.

Sec. 128. It shall be the duty of the Recorder, upon the payment or tender of the fees therefor, to take and certify the acknowledgment of all instruments authorized by law to be acknowledged.

Sec. 129. If any Recorder to whom an instrument, proved or acknowledged according to law, or any paper or notice which may by law be recorded, is delivered for record:

1. Neglects or refuses to record such instrument, paper, or notice within a reasonable time after receiving the same; or,

2. Records any instrument, paper, or notice, willfully or negligently, untruly, or in any other manner than is hereinbefore directed; or,

3. Neglects or refuses to keep in his office such indices as are required by this article, or to make the proper entries therein; or,

4. Alters, changes, or obliterates any records deposited in his office, or inserts, any new matter therein, he is liable to the party aggrieved for three times the amount of the damages which may be occasioned thereby.

Sec. 130. He shall not record any instrument, or file any paper or notice, or furnish any copy, or render any service connected with his office, until his fees for the same, as prescribed by law, are, if demanded, paid or tendered.

Sec. 131. All books of record, maps, charts, surveys, and other papers on file in the Recorder's office, must, during office hours, be open for inspection by any person, without charge; and the Recorder must arrange the books of record and indices in his office in such suitable places as to facilitate their inspection.

## DISTRICT ATTORNEY.

Sec. 132. The District Attorney is the public prosecutor, and must:

1. Attend the courts, and conduct, on behalf of the people, all prosecutions for public offenses.

2. Institute proceedings before the magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that any such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the Superior Court, or in civil cases on behalf of the people, must attend upon the magistrates in cases of arrest, when required by them, and attend before and give advice to the grand jury, whenever cases are presented to them for their consideration.

3. Draw all indictments and informations, defend all suits brought in his county against the State or his county wherever brought, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the State or his county.

4. Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the County Treasurer.

5. On the first Monday of each month file with the Auditor an account, verified by his oath, of all moneys received by him in his official capacity during the preceding month, and at the same time pay them over to the County Treasurer.

6. Give, when required, and without fee, his opinion in writing, to county, district, and township officers, on matters relating to the duties of their respective offices.

Sec. 133. The District Attorney is the legal adviser of the Board of Supervisors. He must attend their meetings, when required, and must attend and oppose all claims and accounts against the county, when he deems them unjust and illegal.

Sec. 134. The District Attorney, except for his own services, must not present any claim, account or demand for allowance against the county, nor in any way advocate the relief asked on any claim or demand made by another.

## COUNTY SURVEYOR.

Sec. 135. The County Surveyor must be a licensed land surveyor of the State, and must make any survey that may be required by order of court or of the Board of Supervisors, or upon application of any person; keep a correct and fair record of all surveys made by him, number them in the order made, and preserve a copy of the field notes and calculations of each survey, and indorse thereon its proper number; a copy of the same, and a fair and accurate plat, together with a certificate of survey, must upon application, be furnished by him to any person, upon payment of the fees allowed by law.

Sec. 136. Any person owning or claiming lands which are divided by county lines, and wishing to have the same surveyed, may apply to the Surveyor of any county in which any part of such land is situated, and on such application being made, the Surveyor must make the survey, which is as valid as though the lands were situated entirely within the county.

Sec. 137. When land, the title to which is in dispute before any court, is divided by a county line, the court making an order of survey may direct the order to the Surveyor of any county in which any part of the land is situated. In all surveys the courses must be expressed according to the true meridian, and the variation of the magnetic meridian from the true meridian must be expressed on the plat, with the date of the survey.

Sec. 138. Each County Surveyor must, when required, aid and assist the Surveyor-General in making surveys within the county. When the County Surveyor is interested in any land, the title to which is in dispute, and a survey thereof is necessary, the court must direct the survey to be made by some disinterested person, and the person so appointed is for that purpose authorized to administer and certify oaths. He must return such survey, verified by his affidavit annexed thereto, and receive for his services the same fees as the County Surveyor would be entitled to for similar service.

Sec. 139. The County Surveyor shall copy, plat, or trace all maps filed for record in the office of the County Recorder of the county for which he shall be elected, and shall be ex officio Deputy County Recorder for said county for such purposes at the cost of the party filing the same for record; provided, however, that all maps and plats filed by a licensed land surveyor, and such other maps and plats as are filed and are thereby made a record, are exempt from the provisions of this Act. The County Surveyor shall plat, trace, blue-print, or otherwise make all county, township, road, district, and all other maps, and all Assessors' block books, for the county of which he is Surveyor. All such maps which are platted, traced, blue-printed, or otherwise made as aforesaid, shall be filed in the County Surveyor's office, together with all data obtained by the County Surveyor from other sources, and the same thereafter shall become the property of the county.

Sec. 140. The County Surveyor shall make such surveys of county roads, and perform such other engineering work as the Board of Supervisors may direct. All such maps and field notes of surveys shall be filed in the office of the County Surveyor, and the same shall thereafter be and remain the property of the county. It shall be the duty of the County Surveyor to advise the Board of Supervisors regarding all engineering work, and to perform such engineering work for the county as may be required by the Board of Supervisors.

Sec. 141. The Board of Supervisors of each county shall provide, for the use of the County Surveyor, a suitable office, office furniture, heat, light, and care for the same, office and record books, and other necessary material, also all necessary expenses and transportation on work performed in the field. In lieu of fees, as now provided by law, the County Surveyor shall receive such compensation as the Board of Supervisors may allow, not to exceed ten dollars per day for all work performed for the county, and in addition thereto, all necessary expenses and transportation on work performed in the field.

## COUNTY CORONER.

Sec. 142. The Coroner must hold inquests as prescribed by chapter two, title twelve, part two, of the Penal Code. The Coroner, or other officer holding the inquest upon the body of a deceased person, may subpoena a chemist to make an analysis of the contents of the stomach or of the tissues of the body, or a physician or surgeon to inspect the body, or hold a post mortem examination of the deceased, and give a professional opinion as to the cause of death, and shall cause the testimony given by the witness to be reduced to writing, under his direction, and may, upon the written order of the District Attorney, employ a clerk or stenographer for such purpose, at the same compensation allowed to stenographers in the Superior Court of the county; and when such testimony is taken down by a stenographer, his transcription thereof, duly certified to, shall constitute the deposition of such witness.

Sec. 143. When an inquest is held by the Coroner, and no other person takes charge of the body of deceased, he must cause it to be decently interred; and if there is not sufficient property belonging to the estate of the deceased to pay the necessary expenses of the burial, the expenses are a legal charge against the county.

Sec. 144. It shall be the duty of the Coroner of each county to keep an official register, to be labeled "Coroner's Register," in which he shall enter the date of holding all inquests, the name of the deceased, when known, and when not, such description of the deceased as may be sufficient for identification; property found on the person of deceased, if any; what disposition was made of the same by the Coroner; the cause of death, when known, and such other information as may pertain to the identity of the deceased.

Sec. 145. The Coroner must, within thirty days after an inquest upon a dead body, deliver to the County Treasurer, or the legal representatives of the deceased, any money or other property found upon the body, and at the same time file an affidavit with the Treasurer, showing:

1. The amount of money or other property be-



longing to the estate of the deceased person which has come into his possession since his last statement.

2. The disposition made of such property.

3. If the Coroner, or any Justice of the Peace acting as Coroner, fail to deliver to the Treasurer, within thirty days after an inquest upon a dead body, all money and property found upon such body, unless claimed in the meantime by the Public Administrator, or other legal representative of the decedent, as required by this section, the District Attorney must proceed against the Coroner or Justice of the Peace acting as Coroner, to recover the same, by civil action, in the name of the county.

Sec. 146. If the office of Coroner is vacant, or he is absent, or unable to attend, the duties of his office may be discharged by any Justice of the Peace of the county, with the like authority, and subject to the same obligations and penalties as the Coroner.

Sec. 147. In the cases specified in section one hundred and four, the Coroner must discharge the duties of Sheriff.

Sec. 148. The Assessor must perform such duties as are prescribed in title nine, part three, of the Political Code, and such other duties as are required by law; provided, that where any salary is allowed to the Assessor, by law, then where such officer is charged, or to be charged, with the making of maps or block books, he shall be allowed the actual cost of making the same, and must file with the County Auditor a sworn statement, monthly, showing in detail the names of persons, and amounts paid to each for such expense, and the Assessor must thereupon pay over and account to the county, or city and county, for the difference between any amount allowed for such purpose, and the amount actually expended by him therefor.

Sec. 149. The Tax Collector must perform such duties as are prescribed in title nine, part three, of the Political Code, and as License Collector shall collect all county licenses, and shall perform such other duties as are required by law. He shall, at least once a month and oftener, in his discretion, pay the public money in his hands into



the county treasury, taking the receipt of the Treasurer therefor.

Sec. 150. The School Superintendent must perform such duties as are prescribed in title three, part three, of the Political Code, and shall perform such other duties as are required by law.

Sec. 151. The Public Administrator must perform such duties as are prescribed in chapter thirteen, title eleven, part three, of the Code of Civil Procedure, and shall perform such other duties as are required by law.

Sec. 152. It shall be the duty of the Public Administrator to keep a book, to be labeled "Register of Public Administrator," in which he shall enter the name of every deceased person on whose estate he shall administer, the date of granting letters, money received, the property appraised and its value, proceeds of all sales of property, the amount of his fees, the expenses of administration, the amount of estate after all charges and expenses have been paid, the disposition of property on distribution, the date of discharge of administrator, and such other matters as may be necessary to give a full and complete history of each estate administered by him. The publication of the semi-annual report required to be made by the Public Administrator shall be a county charge.

Sec. 153. Constables must attend the courts of Justices of the Peace within their townships whenever so required, and within their counties execute, serve, and return all processes and notices directed or delivered to them by Justices of the Peace of such county, or by any competent authority, and shall charge and collect for their services such fees as are now or may be hereafter allowed by law.

Sec. 154. All provisions of sections eighty-eight, eighty-nine, ninety, ninety-one, ninety-two, ninety-three, ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, one hundred and two, and one hundred and three, except, the fourth and sixth subdivisions of section eighty-nine, apply to Constables, and govern their powers, duties, and liabilities.

Sec. 155. Justices of the Peace must perform such duties as are prescribed in title eleven, part

two, of the Code of Civil Procedure, and such other duties as are prescribed by law.

Sec. 156. The salaries of officers must be paid monthly from the county salary fund of the treasury, on the warrant of the Auditor.

Sec. 157. For the purpose of regulating the compensation of all officers herein provided for, the several counties of this State are hereby classified, according to their population (as ascertained and determined in section ten), as follows, to-wit:

All counties containing a population of two hundred thousand and over shall belong to and be known as counties of the first class.

Counties containing a population of one hundred and twenty thousand and under two hundred thousand shall belong to and be known as counties of the second class.

Counties containing a population of one hundred thousand and under one hundred and twenty thousand shall belong to and be known as counties of the third class.

Counties containing a population of fifty thousand and under one hundred thousand shall belong to and be known as counties of the fourth class.

Counties containing a population of forty-five thousand and under fifty thousand shall belong to and be known as counties of the fifth class.

Counties containing a population of thirty-seven thousand and under forty-five thousand shall belong to and be known as counties of the sixth class.

Counties having a population of thirty-six thousand and under thirty-seven thousand shall belong to and be known as counties of the seventh class.

Counties having a population of thirty-five thousand five hundred and under thirty-six thousand shall belong to and be known as counties of the eighth class.

Counties having a population of thirty-five thousand and under thirty-five thousand five hundred shall belong to and be known as counties of the ninth class.

Counties having a population of twenty-seven thousand four hundred and under thirty-five thousand shall belong to and be known as counties of the tenth class.

Counties having a population of twenty-seven thousand and under twenty-seven thousand four hundred shall belong to and be known as counties of the eleventh class.

Counties having a population of twenty-six thousand and under twenty-seven thousand shall belong to and be known as counties of the twelfth class.

Counties having a population of twenty-four thousand and under twenty-six thousand shall belong to and be known as counties of the thirteenth class.

Counties having a population of twenty-two thousand five hundred and under twenty-four thousand shall belong to and be known as counties of the fourteenth class.

Counties having a population of twenty-two thousand and under twenty-two thousand five hundred shall belong to and be known as counties of the fifteenth class.

Counties having a population of twenty-one thousand five hundred and under twenty-two thousand shall belong to and be known as counties of the sixteenth class.

Counties having a population of twenty-one thousand and under twenty-one thousand five hundred shall belong to and be known as counties of the seventeenth class.

Counties having a population of twenty thousand five hundred and under twenty-one thousand shall belong to and be known as counties of the eighteenth class.

Counties having a population of twenty thousand and under twenty thousand five hundred shall belong to and be known as counties of the nineteenth class.

Counties having a population of eighteen thousand five hundred and under twenty thousand shall belong to and be known as counties of the twentieth class.

Counties having a population of eighteen thousand three hundred and fifty and under eighteen thousand five hundred shall belong to and be known as counties of the twenty-first class.

Counties having a population of eighteen thousand three hundred and under eighteen thousand three hundred and fifty shall belong to and be known as counties of the twenty-second class.

Counties having a population of eighteen thousand and under eighteen thousand three hundred shall belong to and be known as counties of the twenty-third class.

Counties having a population of seventeen thousand three hundred and fifty and under eighteen thousand shall belong to and be known as counties of the twenty-fourth class.

Counties having a population of seventeen thousand three hundred and under seventeen thousand three hundred and fifty shall belong to and be known as counties of the twenty-fifth class.

Counties having a population of seventeen thousand one hundred and under seventeen thousand three hundred shall belong to and be known as counties of the twenty-sixth class.

Counties having a population of sixteen thousand five hundred and under seventeen thousand one hundred shall belong to and be known as counties of the twenty-seventh class.

Counties having a population of sixteen thousand one hundred and fifty and under sixteen thousand five hundred shall belong to and be known as counties of the twenty-eighth class.

Counties having a population of sixteen thousand and under sixteen thousand one hundred and fifty shall belong to and be known as counties of the twenty-ninth class.

Counties having a population of fourteen thousand four hundred and under sixteen thousand shall belong to and be known as counties of the thirtieth class.

Counties having a population of fourteen thousand and under fourteen thousand four hundred shall belong to and be known as counties of the thirty-first class.

Counties having a population of thirteen thousand one hundred and under fourteen thousand shall belong to and be known as counties of the thirty-second class.

Counties having a population of thirteen thousand and under thirteen thousand one hundred shall belong to and be known as counties of the thirty-third class.

Counties having a population of twelve thousand five hundred and under thirteen thousand shall

belong to and be known as counties of the thirty-fourth class.

Counties having a population of twelve thousand and under twelve thousand five hundred shall belong to and be known as counties of the thirty-fifth class.

Counties having a population of eleven thousand six hundred and fifty and under twelve thousand shall belong to and be known as counties of the thirty-sixth class.

Counties having a population of eleven thousand six hundred and under eleven thousand six hundred and fifty shall belong to and be known as counties of the thirty-seventh class.

Counties having a population of eleven thousand and under eleven thousand six hundred shall belong to and be known as counties of the thirty-eighth class.

Counties having a population of ten thousand five hundred and under eleven thousand shall belong to and be known as counties of the thirty-ninth class.

Counties having a population of ten thousand two hundred and under ten thousand five hundred shall belong to and be known as counties of the fortieth class.

Counties having a population of nine thousand eight hundred and under ten thousand two hundred shall belong to and be known as counties of the forty-first class.

Counties having a population of nine thousand and under nine thousand eight hundred shall belong to and be known as counties of the forty-second class.

Counties having a population of eight thousand eight hundred and under nine thousand shall belong to and be known as counties of the forty-third class.

Counties having a population of eight thousand five hundred and under eight thousand eight hundred shall belong to and be known as counties of the forty-fourth class.

Counties having a population of seven thousand nine hundred and under eight thousand five hundred shall belong to and be known as counties of the forty-fifth class.

Counties having a population of seven thousand

five hundred and under seven thousand nine hundred shall belong to and be known as counties of the forty-sixth class.

Counties having a population of seven thousand four hundred and under seven thousand five hundred shall belong to and be known as counties of the forty-seventh class.

Counties having a population of six thousand five hundred and under seven thousand four hundred shall belong to and be known as counties of the forty-eighth class.

Counties having a population of five thousand nine hundred and under six thousand five hundred shall belong to and be known as counties of the forty-ninth class.

Counties having a population of five thousand seven hundred and under five thousand nine hundred shall belong to and be known as counties of the fiftieth class.

Counties having a population of five thousand five hundred and under five thousand seven hundred shall belong to and be known as counties of the fifty-first class.

Counties having a population of five thousand three hundred and under five thousand five hundred shall belong to and be known as counties of the fifty-second class.

Counties having a population of four thousand nine hundred and under five thousand three hundred shall belong to and be known as counties of the fifty-third class.

Counties having a population of four thousand and under four thousand nine hundred shall belong to and be known as counties of the fifty-fourth class.

Counties having a population of three thousand and under four thousand shall belong to and be known as counties of the fifty-fifth class.

Counties having a population of two thousand and under three thousand shall belong to and be known as counties of the fifty-sixth class.

Counties having a population of under two thousand shall belong to and be known as counties of the fifty-seventh class.

Sec. 158. In counties of the first class the officers shall receive, as compensation for the services required of them by law, or by virtue of their office,



the salaries and fees fixed by law as compensation; provided, that this shall not be construed as adding any additional compensation to any officer; provided, however, that the Sheriff shall also be allowed mileage for the service of any paper required by law to be served, at the rate of fifteen cents per mile for one way only, to be paid by the person requiring such service.

Sec. 159. In counties of the second class the county and township officers shall receive, as compensation for the services required of them by law, the following salaries, to wit:

1. The County Clerk, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the County Clerk the following deputies, who shall be appointed by the County Clerk, and shall be paid salaries as follows: One chief deputy at a salary of one hundred and thirty-five dollars per month; two registry clerks at a salary of one hundred and twenty-five dollars each per month; one clerk of the Board of Supervisors at a salary of one hundred and twenty-five dollars per month, and six court-room clerks at a salary of one hundred and fifteen dollars each per month; one recording clerk, one file clerk, one index clerk, one clerk in charge of criminal records, at eighty dollars per month; one miscellaneous clerk and one assistant clerk of the Board of Supervisors at a salary of ninety dollars each per month; one clerk at a salary of seventy-five dollars per month; one clerk at a salary of forty-five dollars per month; one deputy at a salary of twenty-five dollars per month; six clerks at a salary of seventy dollars each per month, for not exceeding one month for any one year. The salaries of the deputies and clerks herein provided for shall be paid by said county in monthly installments, at the same time, and in the same manner, and out of the same fund as the salary of the County Clerk is paid.

2. The Sheriff, four thousand dollars per annum; provided that in counties of this class there shall be and there hereby is allowed to the Sheriff an Under Sheriff and the following deputies and stenographers, who shall be appointed by the Sheriff of said county, and shall be paid salaries



as follows: One Under Sheriff at a salary of one hundred and thirty-five dollars per month; one bookkeeper at a salary of one hundred and twenty-five dollars per month; eight deputies at a salary of ninety dollars each per month; six court deputies at a salary of ninety dollars each per month; four jail deputies at a salary of seventy dollars each per month; one jail matron at a salary of fifty dollars per month; one stenographer at a salary of sixty dollars per month. The salaries of the Under Sheriff and all deputies and stenographers herein provided for shall be paid by said county in monthly installments, at the same time, and in the same manner, and out of the same fund that the salary of the Sheriff is paid. The Sheriff shall also receive the amount of money necessarily expended by him in serving all processes and notices, and the same shall be a charge against the county, and allowed as such by the Board of Supervisors, and paid as other county charges are paid. In case of sale of property on foreclosure of mortgage or on execution the Sheriff shall be entitled to receive all necessary expenses of keeping the property and of advertising the sale, and a commission of one per cent upon the proceeds of the sale, which commission shall in no case exceed the sum of twenty-five dollars. Said commission shall be paid into the county treasury and shall be the property of the county.

3. The Recorder, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the Recorder the following deputies and copyists, who shall be appointed by the Recorder of said county, and shall be paid salaries as follows: One chief deputy at a salary of one hundred and twenty-five dollars per month; two deputies at a salary of ninety dollars each per month; two deputies at a salary of eighty-five dollars each per month; four deputies at a salary of eighty dollars each per month; two deputies at a salary of seventy-five dollars each per month, not to exceed four months in any one year; and as many copyists as may be required, who shall receive as compensation for their services the sum of five and one half cents per folio for recording any instrument or notice, except maps or plats;

for copies of any record or paper, five cents per folio. The salaries and compensation of all deputies and copyists, herein provided for, shall be paid by said county in monthly installments, at the same time, and in the same manner, and out of the same fund as the salary of the County Recorder is paid.

4. The Auditor, three thousand six hundred dollars per annum; provided, that in counties of this class there shall be and there is hereby allowed to the Auditor the following deputies and clerks, who shall be appointed by the Auditor, and shall be paid salaries as follows: One chief deputy at a salary of one hundred and fifty dollars per month; one deputy at a salary of one hundred and ten dollars per month; one deputy at a salary of ninety dollars per month; two deputies at a salary of eighty dollars per month each; and forty clerks at a salary of seventy-five dollars each per month, not to exceed one month each in any one year, and such additional assistance as the Auditor may require, and whose compensation in the aggregate shall not exceed the sum of seven hundred and fifty dollars in any one year. The salaries of the chief deputy, deputies, and clerks herein provided for shall be paid by the county in monthly installments, at the same time, and in the same manner, and out of the same fund as the salary of the Auditor.

5. The Treasurer, three thousand six hundred dollars per annum; provided, that in counties of this class, there shall be and hereby is allowed to the Treasurer one chief deputy, who shall be appointed by the Treasurer, and shall be paid a salary of one hundred and twenty-five dollars per month, also one deputy at a salary of ninety dollars per month. The salaries of the deputies herein provided for shall be paid by said county in monthly installments, at the same time and in the same manner, and out of the same fund as the salary of the Treasurer.

6. The Tax Collector, three thousand six hundred dollars per annum, which shall be full compensation for all services rendered by him; provided, that in counties of this class there shall be and there hereby is allowed to the Tax Collector the following deputies and clerks, who shall be appointed by the Tax Collector, and shall be paid

salaries as follows: One chief deputy at a salary of one hundred and twenty-five dollars per month; one cashier, two report clerks, and one general clerk, at a salary of one hundred dollars each per month, one corresponding clerk at a salary of ninety dollars per month, one license clerk at a salary of ninety dollars per month, and two license inspectors at a salary of seventy-five dollars per month each; three clerks at a salary of seventy-five dollars each per month; one clerk at a salary of ninety dollars per month, not to exceed four months in any one year; thirty-four clerks at a salary of seventy-five dollars each per month, not to exceed four months each in any one year. There is also allowed not to exceed four hundred dollars for traveling expenses for the License Tax Collector each year. The salaries of the chief deputy and all the clerks and deputies herein provided for shall be paid by said county in monthly installments, at the same time, and in the same manner, and out of the same fund as the salary of the Tax Collector.

7. The District Attorney, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the District Attorney an Assistant District Attorney and the following deputies, who shall be appointed by the District Attorney of said county, and shall be paid salaries as follows: One Assistant District Attorney at a salary of one hundred and eighty-five dollars per month; one chief deputy at a salary of one hundred and seventy-five dollars per month; one deputy at a salary of one hundred and fifty dollars per month; two deputies at a salary of one hundred dollars each per month; and one stenographer at a salary of seventy-five dollars per month; provided further, that nothing herein contained shall be construed to prevent the Board of Supervisors of said counties of this class from employing special counsel when, in the judgment of said board, the interests of said county require it. The salaries of the Assistant District Attorney, deputies, stenographer, and special counsel herein provided for shall be paid by the county in monthly installments, at the same time, and in the same manner, and out of the same fund as the salary of the District Attorney.

8. The Assessor, thirty-six hundred dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the Assessor the following deputies and clerks, who shall be appointed by the Assessor, and shall be paid salaries as follows: One chief deputy, at one hundred and twenty-five dollars per month; one second deputy, at a salary of one hundred fifteen dollars per month; one valuation clerk, at a salary of eighty-five dollars per month; one transfer clerk, at a salary of eighty-five dollars per month; twenty field deputies for not exceeding one month in any one year, at a salary of one hundred dollars each per month; twenty-five field deputies for not exceeding two months in any one year, at a salary of ninety dollars each per month; fifteen field deputies for not exceeding two months in any one year, at a salary of one hundred dollars each per month; five field deputies for not exceeding three months in any one year, at a salary of one hundred dollars each per month; five field deputies for not exceeding four months in any one year, at a salary of ninety dollars each per month; four clerks for not exceeding four months in any one year, at a salary of ninety dollars each per month; one clerk for not exceeding three months in any one year, at a salary of ninety dollars per month; nineteen clerks for not exceeding four months in any one year, at a salary of eighty dollars each per month; four clerks and one stenographer not to exceed four months in any one year, at a salary of sixty dollars each per month; five clerks for not exceeding one month in any one year, at a salary of eighty dollars each per month; fifteen clerks, copyists, and indexers for not to exceed four months in any one year, at a salary of sixty dollars each per month, and one messenger for not exceeding four months in any one year, at a salary of thirty dollars per month. The salaries of the deputies, stenographer and clerks herein provided for shall be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the County Assessor is paid.

9. The Coroner, three thousand dollars per year and his actual necessary traveling expenses when

traveling outside of the county seat. He must hold inquests, as prescribed by chapter two, title twelve, part two, of the Penal Code, except that he may in his discretion dispense with a jury. The Coroner, or other officer holding the inquest upon the body of a deceased person, may subpoena a physician or surgeon to inspect the body, or a chemist to make an analysis of the contents of the stomach or of the tissues of the body, or hold a post mortem examination of the deceased, and give a professional opinion as to the cause of death, and shall cause the testimony given by the witness to be reduced to writing, under his direction, and may employ a clerk or stenographer for such purpose, as now provided by law.

10. The Public Administrator, three thousand dollars per annum.

11. The Superintendent of Schools, three thousand dollars per annum, which shall be in full for all services including attendance upon the Board of Education, and actual necessary traveling expenses not to exceed five dollars each for every school district in the county; provided, that in counties of this class, there shall be and there hereby is allowed to the Superintendent of Schools one assistant and one deputy, who shall be appointed by the Superintendent of Schools of said county, and shall be paid salaries as follows: One assistant at a salary of one hundred and ten dollars per month; one deputy at a salary of one hundred dollars per month. The salaries of the assistant and deputy herein provided for shall be paid by the county in the same manner, and at the same time, and out of the same fund as the Superintendent of Schools is paid.

12. The Surveyor, ten dollars per day for all work performed, and in addition thereto all necessary expenses and transportation for work performed in the field: provided, that in counties of this class, there shall be and there hereby is allowed to the Surveyor, one chief deputy and seven draughtsmen, who shall be appointed by the Surveyor of said county, and shall be paid salaries as follows: One chief deputy at a salary of one hundred and forty dollars per month; five draughtsmen at a salary of one hundred dollars each per month; and two draughtsmen at a salary of sev-

enty-five dollars per month. The salaries of the chief deputy and draughtsmen herein provided for, shall be paid by said county in monthly installments, at the same time and in the same manner as the deputies of other county officers are paid.

13. Supervisors, one thousand eight hundred dollars per annum, together with mileage, at the rate of ten cents per mile for each mile actually traveled by them in the discharge of their duties, either as Road Commissioners or Supervisors, not exceeding in the aggregate five hundred dollars each per annum. They shall also receive their necessary expenses when attending meetings of the State Board of Equalization.

14. Justices of the Peace, such fees as are now or may be hereafter allowed by law; provided, that no Justice of the Peace shall receive more than one thousand dollars per annum, which may be paid in monthly installments of not exceeding eighty-three and one-third dollars per month, for all services rendered by him in all criminal cases, or in actions or proceedings to which the people of the State of California are or may be parties; and no claim of any such Justice of the Peace in excess of said sum of one thousand dollars per annum, or the installments thereof, as aforesaid, shall be allowed or paid; but all fines and fees collected by every such justice on the account aforesaid shall belong to and be the property of the county in which such justice exercises his jurisdiction. And each of such justices shall report, under oath, on the first Monday of each month, to the Board of Supervisors of such county, the amount of all fines and fees collected by him, on the account aforesaid, during the preceding month, and shall, on said date, deposit with the County Treasurer, to the credit of the county, all such fines and fees as may be shown by said report to have been collected by him. He shall also transmit the Treasurer's receipt for said payment to said board with their said report; provided further, that the Boards of Supervisors of such counties may, in townships having a population of more than thirty-five thousand, provide such justices, or any of them, with an office and the necessary furniture and supplies for the Justice's Court.



15. Constables, such fees as are now or may hereafter be allowed by law; provided, that no Constable shall receive more than one thousand dollars per annum, which may be paid in monthly installments of not exceeding eighty-three and one-third dollars per month for all services rendered by him in all criminal cases, or in actions or proceedings to which the people of the State of California are or may be made parties; and no claim of any such Constable, in excess of said sum of one thousand dollars per annum, or the installments thereof, as aforesaid, shall be allowed or paid; but all fees collected by every such Constable, on the account aforesaid, shall belong to and be the property of the county in which Constable has been elected or appointed. And each of said Constables shall report under oath, on the first Monday of each month, to the Board of Supervisors of such county, the amount of all fees collected by him on the account aforesaid during the preceding month, and shall on said date deposit with the County Treasurer, to the credit of the county, all such fees as may be shown by said report to have been collected by him. He shall also transmit the Treasurer's receipt for said payment to said board, with his said report.

16. This section and all subdivisions and parts thereof shall be in force and take effect from and after the passage of this act.

Sec. 160. In counties of the third class the county officers shall receive as compensation for the services required of them by law, or by virtue of their offices, the following salaries:

1. The County Clerk, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the County Clerk one chief deputy, whose salary is hereby fixed at the sum of sixteen hundred dollars per annum; four court-room deputies, whose salaries are hereby fixed at the sum of fifteen hundred dollars per annum each; one deputy, whose salary is hereby fixed at the sum of fifteen hundred dollars per annum; two deputies, whose salaries are hereby fixed at the sum of twelve hundred dollars per annum each; one deputy, whose salary is hereby fixed at the sum of nine hundred dollars per annum, and one copyist, whose salary



is hereby fixed at the sum of six hundred dollars per annum; the chief deputy, eight deputies, and one copyist herein provided for shall be appointed by the Clerk of said county, and their salaries shall be paid by said county in equal monthly installments, at the same time and in the same manner and out of the same fund as is the salary of County Clerk.

2. The Sheriff, four thousand dollars per annum; provided, that there shall be and hereby is allowed to the Sheriff one under-sheriff, whose salary is hereby fixed at the sum of two thousand four hundred dollars per annum; one chief jailer, whose salary is hereby fixed at the sum of fifteen hundred dollars per annum; one assistant jailer, whose salary is hereby fixed at the sum of twelve hundred dollars per annum; and five deputies, whose salaries are hereby fixed at the sum of twelve hundred dollars per annum each; the under-sheriff, chief jailer, assistant jailer, and five deputies herein provided for shall be appointed by the Sheriff of said county, and their salaries shall be paid by said county, in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the Sheriff; provided, that in counties of this class the Sheriff shall be allowed no compensation or profit for feeding prisoners in the county jail, but that he shall file, monthly, with the County Auditor, a verified statement, showing the names of persons and amounts paid to each for expense of feeding such prisoners, and the Sheriff shall thereupon pay over to the County Treasurer, for the use of the county, any difference between the amount allowed for such purpose by the Supervisors and the amount actually expended by him therefor.

3. The Recorder, four thousand dollars per annum; provided, that there shall be and thereby is allowed to the Recorder one chief deputy, whose salary is hereby fixed at fifteen hundred dollars per annum; two deputies, whose salaries are hereby fixed at the sum of twelve hundred dollars per annum each, and one mortgage deputy, whose salary is hereby fixed at twelve hundred dollars per annum; provided further, that the chief deputy, two deputies, and one mortgage deputy herein provided for shall be appointed by the Recorder of

said county, and their salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the Recorder; provided further, that in counties of this class the Recorder shall be entitled to the actual cost incurred by him for the recording of all papers and documents in his office not exceeding six and one-half cents per folio for each paper or document so recorded; and provided further, that said Recorder shall file monthly, with the County Auditor, a verified statement, showing in detail the persons and the amounts paid to each for such recording.

4. The Auditor, three thousand dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the Auditor one deputy, who shall be appointed by the Auditor of said county, and whose salary is hereby fixed at the sum of fifteen hundred dollars per annum; one clerk, whose salary is hereby fixed at the sum of nine hundred dollars per annum, and such additional assistance as the Auditor may require, and whose compensation shall not in the aggregate exceed the sum of five hundred dollars per annum; and provided, that the Auditor shall file with the County Clerk a verified statement, showing in detail the amounts paid, and the persons to whom said compensation is paid, for such extra assistance as aforesaid. The salaries herein provided for shall be paid by the said county in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the Auditor.

5. The Treasurer, three thousand dollars per annum; provided, that in counties of this class there shall be and hereby is allowed to the Treasurer one deputy, who shall be appointed by the Treasurer of said county, and whose salary is hereby fixed at the sum of twelve hundred dollars per annum, which sum shall be paid by said county in equal monthly installments, at the same time and in the same manner and out of the same fund as the salary of the Treasurer.

6. The Tax Collector, three thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the Tax Collector one chief deputy, whose salary is

hereby fixed at the sum of fifteen hundred dollars per annum, and one deputy, whose salary is hereby fixed at the sum of twelve hundred dollars per annum; provided further, that there shall be and there hereby is allowed to the Tax Collector one extra deputy for the month of April of each year, whose salary shall be one hundred dollars for such month, and three extra deputies for the month of July of each year, whose salaries shall be one hundred dollars each for such month, and five extra deputies for the month of August of each year, whose salaries shall be one hundred dollars each for such month, and six extra deputies for the month of September of each year, whose salaries shall be one hundred dollars each for such month, and seven extra deputies for the month of October of each year, whose salaries shall be one hundred dollars each for such month, and nine extra deputies for the month of November of each year, whose salaries shall be one hundred dollars each for such month; provided further, that the chief deputy, and all other deputies herein provided for, shall be appointed by the Tax Collector of said county, and the salaries of said chief deputy and all other deputies herein provided for shall be paid by said county, during the time which they shall hold office, as herein provided, at the same time and in the same manner and out of the same fund as the salary of the Tax Collector.

6½. The License Collector shall receive fifteen per cent of all licenses collected by him.

7. The Assessor, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the Assessor one chief deputy, whose salary is hereby fixed at eighteen hundred dollars per annum, one deputy, whose salary is hereby fixed at twelve hundred dollars per annum; and provided further, that there shall be and there hereby is allowed to the Assessor two poll tax or other deputies, whose salaries are hereby fixed at one hundred dollars per month each during the time which they shall hold office, as hereinafter provided; five deputies, whose salaries are hereby fixed at one hundred dollars per month each during the time which they shall hold office, as hereinafter provided; four

copyists, whose salaries are hereby fixed at one hundred dollars per month each during the time which they shall hold office, as hereinafter provided; seven outside field deputies, whose salaries are hereby fixed at one hundred and twenty-five dollars per month each during the time which they shall hold office, as hereinafter provided; one cashier, whose salary is hereby fixed at one hundred dollars per month during the time which he shall hold office, as hereinafter provided, one personal property tax collector, who shall hold office for the period of four months, as hereinafter provided, and at a compensation of one hundred dollars per month; and eight extra deputies, whose salaries are hereby fixed at one hundred dollars per month each during the time which they shall hold office, as hereinafter provided; provided, that the chief deputy, personal property tax collector, all other deputies, all copyists and cashier herein provided for shall be appointed by the Assessor of said county; provided further, that the one chief deputy, one deputy, two poll tax or other deputies, five deputies, four copyists, seven outside field deputies, personal property tax collector, cashier, and eight extra deputies herein provided for, shall be paid during the time which they shall hold office as herein provided, at the same time and in the same manner and out of the same fund as the salary of the Assessor; provided further, that the two poll tax deputies, five deputies, four copyists, seven outside field deputies, one personal property tax collector, and eight extra deputies herein provided for, shall hold office from twelve o'clock meridian of the first Monday in March of each year up to twelve o'clock meridian of the first Monday of July of each year; and the cashier herein provided for shall hold office from twelve o'clock meridian of the first Monday in March of each year up to twelve o'clock meridian of the first Monday of September of each year. It is hereby further provided, that in counties of this class the Assessor shall receive no commission for his collection of taxes on personal property, nor shall such Assessor receive any compensation or commission for the collection of poll taxes or road poll taxes, nor shall the said Asses-

sor receive any compensation for making out the military roll of persons returned by him as subject to military duty, as provided by section nineteen hundred and one of the Political Code; provided, however, that should the Assessor be directed by any law, or by any order of the Board of Supervisors, or by any municipality within said counties of the third class, to prepare maps, plats, block books for the use of the county, or assessment rolls for the use of any municipality, then said Assessor shall only receive the actual cost by him incurred in making or preparing such maps, plats, block books, or assessment rolls; and provided further, that he shall file with the County Auditor a sworn statement, showing the persons to whom, and the amounts paid to each, for such maps, plats, block books, or any such assessment rolls, and that he shall account forthwith and pay over to the county any difference between such cost and the amount so allowed by him for such work.

8. The District Attorney, four thousand dollars per annum; provided, that in counties of this class there shall be and there hereby is allowed to the District Attorney one Chief Deputy District Attorney, whose salary is hereby fixed at two thousand dollars per annum; one Assistant District Attorney, whose salary is hereby fixed at fifteen hundred dollars per annum; one Deputy District Attorney, whose salary is hereby fixed at twelve hundred dollars per annum, and one clerk, whose salary is hereby fixed at the sum of six hundred dollars per annum; provided further, that the Chief Deputy District Attorney, Assistant District Attorney, and Deputy District Attorney, and clerk shall be appointed by the District Attorney, and their salaries shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the District Attorney.

9. The Coroner, such fees as are now or may hereafter be allowed by law.

10. The Public Administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools, three thousand dollars per annum; provided, that in coun-

ties of this class there shall be and hereby is allowed to the superintendent of schools one deputy, whose salary is hereby fixed at nine hundred dollars per annum; provided, that the said deputy shall be appointed by the superintendent of schools, and such salary shall be paid by said county in equal monthly installments at the same time and in the same manner and out of the same fund as the salary of the superintendent of schools.

12. The surveyor shall receive ten dollars per day for all work performed for the county, and in addition thereto all necessary expenses and transportation for work performed in the field; provided, that whenever the surveyor is directed or charged to make, plat, trace, or otherwise prepare maps, plats, or block books for the use of the county, city and county, or any municipality within such county, then such county surveyor shall only be allowed, in addition to the actual cost and expense of making, platting, tracing, or otherwise preparing such maps, plats, or block books, a compensation to be determined by the board of supervisors, not exceeding the sum of ten dollars per day while he is actually so employed; and provided further, that such county surveyor shall file with the county auditor, a sworn statement, showing in detail the amounts so paid, and the persons to whom such amounts have been so paid for such expense as aforesaid.

13. In all townships in counties of this class, the justices of the peace shall receive such fees as are now or may hereafter be allowed by law.

14. Constables, such fees as are now or may hereafter be allowed by law.

15. Each supervisor, one hundred and twenty-five dollars per month, and mileage at ten cents per mile for each mile actually traveled in going to and from their residence to the county seat, or in the performance of the duties required of them by law or by virtue of their office; provided, that in attending sessions of the board only four mileages shall be allowed for each month, and that the total mileage allowed shall not exceed one hundred dollars in any one month.

16. All deputies and assistants hereinbefore provided for shall be appointed by their respective



principals, and the salaries of all deputies and assistants shall be paid in the same manner and out of the same fund as the salaries of their respective principals.

17. This section shall be in force and effect from and after the first Monday after the first day of January, eighteen hundred and ninety-nine, except subdivision six and one-half, which said subdivision shall take effect sixty days after the passage of this act; provided, that none of the provisions of this act herein or elsewhere contained shall be construed as diminishing the fees, compensation, emoluments, or receipts of any incumbent or incumbents of offices of counties of the third class, but such provisions shall only be in force and effect as to the offices and officers enumerated in this section after said last named date, except as hereinabove provided.

Sec. 161. In counties of the fourth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, nine thousand dollars per annum.

2. The sheriff, nine thousand five hundred and twenty dollars per annum; provided, that he shall receive as additional compensation the mileage collected by him in criminal cases where the same is not a charge against his county.

3. The recorder, eight thousand dollars per annum.

4. The auditor, four thousand dollars per annum.

5. The treasurer, four thousand dollars per annum.

6. The tax collector, seven thousand dollars per annum, which shall include all fees and percentage as license collector.

7. The assessor, nine thousand five hundred dollars per annum, and the said assessor may appoint one deputy assessor, which office of deputy assessor is hereby created, who shall receive as compensation the sum of twelve hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers.

8. The district attorney, three thousand two



hundred dollars per annum; and the said district attorney may appoint one assistant district attorney, and one deputy district attorney, which said offices of assistant district attorney and deputy district attorney are hereby created. The salary of such assistant district attorney is hereby fixed at eighteen hundred dollars per annum, and the salary of such deputy district attorney is hereby fixed at twelve hundred dollars per annum, such salaries to be paid at the same time and in the same manner as the salaries of other county officers.

9. The coroner, six hundred dollars per annum.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county; and the said superintendent of schools may appoint one assistant superintendent of schools, which office of assistant superintendent of schools is hereby created, who shall receive as compensation the sum of nine hundred dollars per annum, payable at the same time and in the same manner as the salaries of other county officers.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law; provided, that justices of the peace shall be allowed for their services no more than two thousand dollars in any one year from criminal fees; provided, however, that in townships containing a population of not less than twenty thousand and not more than forty thousand inhabitants, the justice of the peace shall be allowed a clerk at a salary of seventy-five dollars per month, which amount shall be allowed and paid out of the fees collected in addition to the said two thousand dollars allowed the justices of the peace of said townships in counties of this class. Said justices of the peace shall render an itemized account, under oath, on the first Monday of each month, to the board of supervisors of all fees collected; provided further, that in counties of this class, in townships having a population of twenty thousand inhabitants and over there shall be two justices of the peace.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each supervisor, one thousand two hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat for each trip when attending the county seat upon official business, such mileage not to exceed forty-five dollars per month; and in counties of this class the members of the board of supervisors shall be ex officio road commissioners, and as such road commissioner shall be paid the sum of five hundred dollars per annum each.

16. Section one hundred and sixty-one of this act shall go into effect from and after its passage.

Sec. 162. In counties of the fifth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum; he shall appoint one chief deputy at a salary of fifteen hundred dollars per annum, one additional deputy at a salary of nine hundred dollars per annum, and three court room clerks at a salary of twelve hundred dollars each per annum. The salaries of each of said deputies and clerks to be paid out of the county treasury, in equal monthly installments in the same manner and at the same time as other county officials are paid.

2. The sheriff, nine thousand dollars per annum, and one deputy sheriff at a salary of one thousand five hundred dollars, to be paid at the same time and in the same manner as other county officers are paid, being the same deputy allowed sheriffs under and by virtue of section two hundred and sixteen of an act entitled "An act to establish a uniform system of county and township governments," approved March twenty-fourth, eighteen hundred and ninety-three, and such fees and mileage as are now or hereafter may be provided by law for all services done or performed in actions coming from another county, and for all criminal service necessarily performed outside of his county, and all necessary expense incurred in arresting and conveying prisoners before a court or to prison, and shall have such fees and reasonable expenses incurred in taking and keeping

property seized under attachment or levied on under execution; provided, that the keeper's fees shall not exceed three dollars per day of twelve hours, except when it becomes necessary to keep a place of business open in the night, in which case he shall be allowed additional keeper's fees, to be fixed by the court from which the writ issued under which the property was taken.

3. The recorder, four thousand dollars per annum.

4. The auditor, one thousand dollars per annum.

5. The treasurer, three thousand four hundred dollars per annum.

6. The tax collector, two thousand five hundred dollars per annum.

6½. The license collector, one thousand eight hundred dollars per annum.

7. The assessor, six thousand dollars per annum.

8. The district attorney, three thousand six hundred dollars per annum. In counties of this class the district attorney may appoint an assistant district attorney, which office is hereby created, who shall receive as compensation for his services the sum of fifteen hundred dollars per annum, to be paid out of the county treasury in equal monthly installments in the same manner and at the same time other county officials are paid. In counties of this class the district attorney may appoint a clerk for service in his office, which office of clerk to the district attorney is hereby created, and said clerk shall receive as compensation for his services the sum of nine hundred dollars per annum, to be paid out of the county treasury in equal monthly installments, in the same manner and at the same time other county officials are paid.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting schools of his county, not exceeding three hundred dollars per annum.

12. The surveyor, two thousand four hundred dollars per annum, and in addition thereto all

necessary expenses and transportation for work performed on the field; provided, that in counties of this class, whenever the board of supervisors shall order, or the assessor may require assessor's map or block books, then the surveyor shall receive, in addition to the salary hereinabove noted the sum of nine hundred dollars for the preparation and completion of the said map or block books.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each supervisor, seventy-five dollars per month, and ten cents per mile for traveling to and from the county seat; provided, mileage shall not be allowed oftener than once in each month.

16. In counties of this class, the official reporters, not exceeding two, of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said cases tried in said court, each a monthly salary of one hundred and sixty-six and two-thirds dollars, payable out of the county treasury at the same time and in the same manner as the salary of other county officers; and for transcription of said notes, when required, the sum of ten cents per folio for the original, and five cents per folio for a copy, shall be paid the reporter making the transcription; provided, that said two official reporters herein designated shall perform all the services necessary in all the departments of said court, and when the departments shall require the services of a reporter at the same session, it shall be the duty of the said two official reporters to furnish the extra reporter, and his compensation shall be paid by them, and shall not be a charge against the county. Said compensation for transcription in criminal cases to be allowed on the order of the court and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct. It is further provided that in each civil case reported by the official reporter there shall be taxed as costs in the case, ten dollars per diem for each day of the trial thereof. Such per diem fee shall

be paid to the clerk of the court in advance by the party requesting the services of the reporter, and where his services are requested by more than one party, then such fee shall be paid in equal proportions by each of said parties. All per diem fees so collected shall be paid by said clerk into the treasury of the county in which the case is tried.

17. All portions of this section referring to the salaries of the sheriff, county clerk, surveyor, and reporters, shall take effect and be in full force from and after the passage of this act.

Sec. 163. In counties of the sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, five thousand dollars per annum; provided, that he shall appoint one chief deputy at a salary of twelve hundred dollars per annum, and two court-room deputies at a salary of nine hundred dollars per annum each; the salaries of said three deputies shall be paid by said county clerk out of said five thousand dollars compensation above named.

2. The sheriff, six thousand two hundred dollars per annum; provided, that he shall appoint one under sheriff at a salary of fifteen hundred dollars per annum, and three deputy sheriffs at a salary of nine hundred dollars per annum each. The salaries of said under sheriff and deputies shall be paid by said sheriff out of said sixty-two hundred dollars compensation above named. The sheriff shall also receive, as compensation for traveling, to be computed in all cases from the court-house, to serve any summons and complaint, or any other process by which an action or proceeding is commenced, notice, rule, order, subpoena, attachment on property, to levy an execution, post notices of sale, to sell property under execution or other order of sale, to execute an order for the delivery of personal property, writ of possession or restitution, to hold inquest or trial of right of property, in executing writ of habeas corpus, or collecting taxes, in going only, twenty cents for each mile; provided, that if any two or more papers be required to be served in the same suit, at the same time, and in the same direction, one mileage only shall be charged to the most dis-

tant points to complete such service, which distance shall, in all cases, be estimated by the nearest practicable route.

3. The recorder, three thousand nine hundred dollars per annum; provided, that the recorder shall appoint a chief deputy at a salary of one thousand two hundred dollars per annum, and two copyists at a salary of six hundred dollars per annum each, which salary of chief deputy and of said two copyists shall be paid by said recorder out of said three thousand nine hundred dollars compensation above named.

4. The auditor, one thousand dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, twelve hundred dollars per annum.

7. The assessor, four thousand two hundred dollars per annum; provided, that the assessor shall appoint eight deputy assessors at a salary of three hundred dollars per annum each, all of which deputies' salaries shall be paid by said assessor out of said four thousand two hundred dollars compensation above named.

8. The district attorney, two thousand four hundred dollars per annum, and one assistant district attorney at a salary of fifteen hundred dollars per annum, to be paid at the same time and in the same manner as county officers are paid; said assistant district attorney allowed in lieu of the assistant district attorney allowed by virtue of subdivision thirty-six of section twenty-five of an act entitled "An act to establish a uniform system of county and township governments," approved March twenty-fourth, eighteen hundred and ninety-three.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor shall receive one thousand five hundred dollars per annum for all work performed by the county, and in addition thereto all neces-



sary and actual traveling expenses incurred in connection with field work; provided, that whenever the surveyor is directed by the board of supervisors to plat, trace, or otherwise prepare maps, plats, or block books, for use of the county assessor, he shall be allowed only the actual cost of preparing the same; provided, further, that all fees now or which may be hereafter allowed by law, shall be paid into the county treasury for the benefit of the county.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Supervisors, for all services required of them by law or by virtue of their office, must be allowed six dollars per day, and thirty cents per mile in traveling from their place of residence to the court-house; provided, that only one mileage must be allowed at each term; and provided further, that no supervisor must be allowed more than one day's pay for any one day, by reason of his being on the committees appointed by the board of supervisors, or for any other cause; provided, that in no case shall the per diem of the supervisors exceed eight hundred dollars each in one year.

16. In counties of this class the official reporter of each department of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for all preliminary examinations and other services rendered in court, a monthly salary of one hundred dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors, as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.



Sec. 164. In counties of the seventh class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand five hundred dollars per annum.

2. The sheriff, three thousand six hundred dollars per annum. The sheriff shall also receive, for his own use and benefit, the fees for mileage which are now or which may hereafter be allowed by law, and the fees or commissions for the service of all papers whatsoever issued by any court of the state outside of his county; and shall also receive his necessary expenses in all criminal cases.

3. The recorder, two thousand five hundred dollars per annum.

4. The auditor, one thousand dollars per annum.

5. The treasurer, two thousand five hundred dollars per annum.

6. The tax collector, eight hundred dollars per annum, which shall be in full for all services as tax collector and license collector.

7. The assessor, two thousand two hundred dollars per annum.

8. The district attorney, three thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace shall receive the following salaries for all services rendered by them in criminal cases payable monthly in the same manner as county officers are paid, viz.: In townships having a population of fourteen thousand or more, one hundred dollars per month; in townships having a population of not less than five thousand nor more than fourteen thousand, sixty-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand, fifty dollars per month; in

townships having a population of not less than two thousand nor more than three thousand, forty dollars per month; in townships having a population of not less than fifteen hundred nor more than two thousand, thirty dollars per month; in all townships having a population of less than fifteen hundred, fifteen dollars per month. Justices of the peace in counties of this class shall also receive, for their own use and benefit, such fees as are now or may hereafter be allowed by law in civil cases.

14. Constables shall receive the following salaries for all services rendered by them in criminal cases, payable monthly, in the same manner as county officers are paid, viz.: In townships having a population of fourteen thousand or more, one hundred dollars per month; in townships having a population of not less than five thousand nor more than fourteen thousand, sixty-five dollars per month; in townships having a population of not less than three thousand nor more than five thousand fifty dollars per month; in townships having a population of not less than two thousand nor more than three thousand, forty dollars per month; in townships having a population of not less than fifteen hundred nor more than two thousand, thirty dollars per month; in all townships having a population of less than fifteen hundred, fifteen dollars per month. Constables shall also receive for their own use and benefit such fees as are now or hereafter may be allowed by law, for mileage in criminal cases, and shall also receive such fees as are now or hereafter may be allowed by law in civil cases.

15. Each member of the board of supervisors, nine hundred dollars per annum, and their necessary expenses when attending to the business of the county, other than the meetings of the board, and fifteen cents a mile mileage in traveling to and from his residence to the county seat; provided, that no more than one mileage at any one term of the board shall be allowed.

16. The county clerk shall have one chief deputy at a salary of one thousand two hundred dollars per annum, two court-room deputies at a salary of nine hundred dollars per annum each; and deputies, or a deputy, for the purpose of register-

ing electors, and for other emergencies, to be paid not to exceed three dollars per diem each. The county recorder, one deputy at a salary of one thousand two hundred dollars per annum, and two deputies at a salary of nine hundred dollars per annum each. The treasurer, one deputy at a salary of one thousand five hundred dollars per annum. The assessor, one office deputy at a salary of one thousand two hundred dollars per annum, and fifteen deputies to serve from the first Monday in March to the first Monday in July of each year, and shall each receive four dollars per day for each day they actually and necessarily attend to the duties of the office. The district attorney, an assistant district attorney at a salary of fifteen hundred dollars per annum, and a deputy district attorney at a salary of nine hundred dollars per annum. The sheriff, an under sheriff, who shall receive a salary of one thousand five hundred dollars per annum; a clerk who shall receive a salary of nine hundred dollars per annum; a deputy sheriff, who shall receive a salary of nine hundred dollars per annum; two bailiffs or courtroom deputies, each of whom shall receive a salary of nine hundred dollars per annum; two jailers who shall receive a salary of nine hundred dollars per annum each. All the deputies, assistants, and clerks herein mentioned shall be paid at the times and in the manner that their principals are paid, from and after the approval of this act.

17. This act so far as it relates to constables and justices of the peace in counties of the seventh class shall take effect immediately.

Sec. 165. In counties of the eighth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, seven thousand six hundred dollars per annum.

2. The sheriff, eight thousand dollars per annum.

3. The recorder, the fees now allowed by law pertaining to said recorder's office; provided, that all books of record, printing, and stationery, shall be furnished and paid for by the recorder out of his fees. The style and quality of the same to be approved by the board of supervisors.

4. The auditor, five thousand five hundred dollars per annum.

5. The treasurer, three thousand dollars per annum.

6. The tax collector, seven thousand dollars per annum, which shall include all fees and percentage as license collector.

7. The assessor, four thousand dollars per annum, and such fees as are allowed by law.

8. The district attorney, five thousand dollars per annum.

9. The superintendent of public schools, twenty-five hundred dollars per annum. He shall have one deputy at an annual salary of twelve hundred dollars.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The coroner, such fees as are now or may be hereafter allowed by law.

12. The surveyor, two thousand dollars per annum, which shall be in lieu of all fees and per diem now allowed by law.

13. Constables, such fees as are now or may be hereafter allowed by law; provided, however, that no constable shall be allowed in any one month out of the county treasury, more than seventy-five dollars in misdemeanor cases.

14. Justices of the peace, such fees as are now or may hereafter be allowed by law; provided, however, that no justice of the peace shall be allowed in any one month out of the county treasury, more than seventy-five dollars in misdemeanor cases.

15. Each member of the board of supervisors, five hundred dollars per annum, and fifteen cents per mile in going from his residence to the county seat at each meeting of the board. Also, four hundred dollars per annum each, and mileage now allowed by law for services as road commissioners.

16. In counties of this class the official reporters of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and on all lunacy and preliminary examinations and coroner's inquests, a monthly salary of one hundred and twenty-five dollars, payable out of the county treasury at the same time and in the same manner as the sal-

aries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases and coroner's inquests to be audited and allowed by the board of supervisors, as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 166. In counties of the ninth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, two thousand four hundred dollars per annum. He shall have one deputy at a salary of fifteen hundred dollars per annum, one at a salary of twelve hundred dollars, three deputies each at a salary of nine hundred and sixty dollars, and one at a salary of seven hundred and twenty dollars per annum.

2. The sheriff, six thousand dollars per annum, and all fees for service of process issued without his county. He shall have an under sheriff whose annual salary shall be fifteen hundred dollars, two deputies whose annual salary shall be twelve hundred dollars each, and four deputies whose annual salary shall be nine hundred dollars each.

3. The recorder, two thousand dollars per annum. He shall have one deputy whose salary shall be twelve hundred dollars per annum, and two deputies who shall each receive nine hundred and sixty dollars per annum. He shall have such copyists as are necessary to perform the duties of the office, at a compensation not to exceed six cents per folio.

4. The auditor, two thousand dollars per annum, and one clerk at a monthly salary of eighty dollars. The auditor shall also have one deputy, at an annual salary of twelve hundred dollars.

5. The treasurer, two thousand five hundred dollars per annum. He shall have a deputy at a salary of twelve hundred dollars per annum.

6. The tax collector, two thousand dollars per annum. He shall have one deputy, who shall receive twelve hundred dollars per annum, and

three deputies, each at an annual salary of nine hundred and sixty dollars.

7. The assessor, two thousand five hundred dollars per annum. He shall have one deputy at a salary of nine hundred and sixty dollars per annum, and six deputies whose per diem shall be four dollars each, when actually employed between the first Monday in March and the first Monday in June.

8. The district attorney, three thousand dollars per annum. He shall have one deputy at a salary of eighteen hundred dollars, and one deputy at a salary of twelve hundred dollars, per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, two thousand dollars per annum. He shall have one deputy at an annual salary of twelve hundred dollars. The superintendent shall also be allowed actual traveling expenses when visiting the schools of his county.

12. The surveyor, two thousand dollars per annum, and his actual expenses when at work in the field. He shall have one deputy at a salary of seventy-five dollars per month. The salary herein provided for surveyor shall not apply to the current term of office.

13. Justices of the peace, the fees allowed by law.

14. Constables, the fees allowed by law.

15. Each supervisor, six dollars per day when the board is necessarily in session, and twenty cents for each mile traveled by the ordinary route in going from his residence to the county seat, once during each meeting.

When traveling by order of the board upon county business, each supervisor shall be allowed his actual itemized expenses. For all services as road commissioner each supervisor shall receive not to exceed five hundred dollars per annum, but for all services rendered by virtue of his office, including mileage, no supervisor shall be allowed more than fifteen hundred dollars in any one year.

16. The official reporters of the superior court, in counties of this class, shall receive as full



compensation for taking notes, when his services are demanded in civil cases, and in all criminal cases tried in said court, a monthly salary of one hundred and fifty dollars, payable out of the county treasury, in the same manner as salaries of county officers are paid. For transcription of said notes, when required, he shall receive ten cents per folio for the original, and five cents per folio for a copy. The compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases or proceedings, to be paid by the party ordering the same, or when ordered by the judge, by either party, or by both parties, as the court may direct. When the services of the reporter are demanded in any civil matter, the clerk shall collect, each day, in advance, five dollars from the party demanding the same, and shall pay the same into the county treasury on the first Monday of each month.

Sec. 167. Counties of the tenth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, four thousand three hundred dollars per annum, and the sum of five hundred dollars for making great register.

2. The sheriff, five thousand three hundred dollars per annum and all commissions, fees, and mileage, for the service of papers or process coming from courts other than those of his own county.

3. The recorder, fifteen hundred dollars per annum; six cents per folio for recording.

4. The auditor, one thousand eight hundred dollars per annum.

5. The treasurer, one thousand eight hundred dollars per annum.

6. The tax collector, three thousand two hundred dollars per annum; provided, however, that in counties of this class, the tax collector shall receive no fees or commissions for the collection of licenses.

7. The assessor, five thousand five hundred dollars per annum; provided, however, that the per-



centage received by the assessor on poll taxes and personal property taxes, and also amounts allowed for returning names of persons subject to military duty, and which, in counties of other classes, is allowed to the assessor as compensation, shall be paid by him into the county treasury, and no part thereof shall be received by him as compensation.

8. The district attorney, three thousand dollars per annum; provided, that this salary shall include the compensation of an assistant, or of deputies, if any.

9. The coroner, such fees as are now or may hereafter be allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools for full services, including attendance on the county board of education, one thousand five hundred dollars and actual traveling expenses.

12. The surveyor, one thousand five hundred dollars per annum, and in addition thereto, all necessary expenses, and transportation on work performed in the field.

13. The justices of the peace, the following monthly salaries, to be paid each month as salaries of other county officers are paid, which shall be in full for all services rendered by them in criminal cases:

In townships having a population of six thousand and over, one hundred dollars per month.

In townships having a population of two thousand four hundred, and less than six thousand, seventy-five dollars per month.

In townships having a population of two thousand and less than two thousand four hundred, sixty-five dollars per month.

In townships having a population of one thousand five hundred, and less than two thousand, fifty-five dollars per month.

In townships having a population of one thousand, and less than one thousand five hundred, thirty dollars per month.

In townships having a population of eight hundred, and less than one thousand, twenty dollars per month.

In townships having a population of five hun-

dred, and less than eight hundred, fifteen dollars per month.

In townships having a population less than five hundred, ten dollars per month.

In addition to above salaries, each justice of the peace shall collect for his own use in civil cases such fees as are now or may hereafter be allowed by law.

14. Constables. The following monthly salaries to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases:

In townships having a population of five thousand and more, one hundred dollars per month; in townships having a population of fifteen hundred and less than five thousand, sixty dollars per month; in townships having a population of one thousand and less than fifteen hundred, fifty dollars per month; in townships having a population of eight hundred and less than one thousand, thirty dollars per month; in townships having a population of five hundred and less than eight hundred, fifteen dollars per month; in townships having a population less than five hundred, ten dollars per month. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions.

The population of townships shall, for the purpose of this section, be determined by multiplying the vote for governor, cast in each township, at the next preceding election, by five.

15. The supervisors, each the sum of six hundred dollars per annum, and twenty cents per mile one way for attending session of the board; provided, that he shall not receive in any one year more than five hundred dollars for said mileage. Each supervisor shall receive for his services as road commissioner, twenty cents per mile one way for all distances actually traveled by him in the performance of his duties; provided, that he shall not receive in any one year more than five hundred dollars.

16. The official reporter of each department of the superior court shall receive, as full compensation for taking notes in civil and criminal cases

tried in said courts, and when requested by a justice of the peace or coroner, in preliminary examinations, or inquests, a salary of one thousand dollars per annum, payable in equal monthly installments, out of the county treasury, at the same time and in the same manner as the salaries of other county officers; and for transcription of said notes, when required, they shall receive the sum of ten cents per folio for the original and five cents per folio for a copy, and also actual traveling expenses, when reporting outside of the county seat. Said compensation for transcribing in criminal cases, preliminary examinations, and inquests, and traveling expenses, to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

17. All portions of this section referring to the salaries of surveyor, justices of the peace, constables, and mileage of supervisors, shall take effect and be in full force from and after the passage of this act.

Sec. 168. In counties of the eleventh class the county and township officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand six hundred dollars per annum, and one deputy, at a salary of nine hundred dollars per annum.

2. The sheriff, five thousand dollars per annum.

3. The recorder, two thousand four hundred dollars per annum; provided, that such recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees collected shall amount to more than four hundred dollars in any month, the recorder may receive and retain for his own use, in addition to his salary, one-half of all fees in excess of four hundred dollars in any month so collected. But the amount of fees thus received by the recorder for his own use, plus his salary, shall not exceed the sum of four thousand dollars in any one year.

4. The auditor, one thousand two hundred dollars per annum.
5. The treasurer, two thousand dollars per annum.
6. The tax collector, two thousand eight hundred dollars per annum.
7. The assessor, four thousand dollars per annum.
8. The district attorney, two thousand dollars per annum; provided, that when authorized by four-fifths vote of the board of supervisors, the district attorney shall appoint an assistant district attorney, which office is hereby created, who shall receive as compensation for his services, fifteen hundred dollars per annum, to be paid out of the county treasury in equal monthly installments, in the same manner as other county officials are paid, except as otherwise herein provided.
9. The coroner, such fees as are now or may hereafter be allowed by law.
10. The public administrator, such fees as are now or may be hereafter allowed by law.
11. The superintendent of schools, two thousand dollars per annum.
12. The surveyor, fifteen hundred dollars per annum, and necessary traveling expenses while in the performance of the duties of his office.
13. Justices of the peace, such fees as are now or may hereafter be allowed by law.
14. Constables, such fees as are now or may hereafter be allowed by law.
15. Supervisors each the sum of six hundred dollars per annum, and actual mileage, not to exceed in any one year the sum of one hundred dollars. Each supervisor shall receive for his services as road commissioner, twenty cents per mile one way, for all distances actually traveled by him in the performance of his duties; provided, that he shall not receive in any one year more than five hundred dollars. This act, as far as it relates to the compensation of supervisors as road commissioners, shall take effect immediately after the passage of this act.
16. In counties of the eleventh class the official reporter of the superior court shall receive for attending court, taking notes, and reporting cases tried therein, a salary of one hundred and eighty

dollars per month, payable at the same time and in the same manner as the salary of other county officers, and for transcription of notes when required he shall receive the sum of ten cents per folio for the original and five cents per folio for copies; the compensation for transcription in criminal cases to be audited and allowed by the board of supervisors, as other claims against the county, and paid out of the county treasury; and in civil cases or proceedings, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or by both parties, as the court may direct.

This act, so far as it relates to the salaries of county and township officers in the counties of the eleventh class, shall take effect on the first day of January, eighteen hundred and ninety-nine.

Provided, also, that this act, so far as it relates to the reporter of the superior court in counties of the eleventh class, shall take effect immediately.

Sec. 169. In counties of the twelfth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to-wit:

1. The county clerk, three thousand dollars per annum, and when a great register of voters is ordered he shall receive five hundred dollars additional, which shall be in full for all services rendered in registering voters and making the great register.

2. The sheriff, four thousand five hundred dollars per annum, and the fees or commissions for the services of all papers, whatsoever issued by any court outside of his county. He shall appoint a jailer to take charge of the branch county jail, at a salary of six hundred dollars per annum, to be paid by the county.

3. The recorder twenty-two hundred and fifty dollars per annum.

4. The auditor, eighteen hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, fifteen hundred dollars per annum.

7. The assessor, three thousand dollars per annum.

8. The district attorney, two thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, five hundred dollars per annum.

11. The superintendent of schools, fifteen hundred dollars per annum, and his actual necessary traveling expenses while visiting schools.

12. The surveyor shall receive seven dollars per diem for each day actually employed in the performance of his duties as a county officer, and in addition thereto all necessary expenses, such as transportation and pay of help which may be necessary for the performance of county duties.

13. Justices of the peace, the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases. In townships having a population of six thousand or more, one hundred dollars per month; in townships having a population of two thousand four hundred and less than six thousand, seventy-five dollars; in townships having a population of two thousand and less than two thousand four hundred, sixty-five dollars; in townships having a population of one thousand five hundred and less than two thousand, fifty-five dollars; in townships having a population of one thousand and less than one thousand five hundred, thirty dollars; in townships having a population of eight hundred and less than one thousand, twenty dollars; in townships having a population of five hundred and less than eight hundred, fifteen dollars; in townships having a population less than five hundred, ten dollars. Each justice must pay into the county treasury, once a month, all fines collected by him. In addition to the monthly salary allowed herein, each justice may receive for his own use such fees as are now or hereafter may be allowed by law for all services performed by him in civil actions.

14. Constables, the following salaries, which shall be paid monthly, as salaries of county officers are paid, and which shall be in full for all services rendered by them in criminal cases, to wit: In townships having a population of two



thousand one hundred and more, one hundred dollars; in townships having a population of one thousand five hundred and less than two thousand one hundred, eighty dollars; in townships having a population of one thousand and less than one thousand five hundred, fifty dollars; in townships having a population of eight hundred and less than one thousand, thirty dollars; in townships having a population of five hundred and less than eight hundred, fifteen dollars; in townships having a population of less than five hundred, ten dollars. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or hereafter may be allowed by law for all services performed by him in civil actions.

For the purposes of this act the basis of calculation for fixing the compensation of the justices and constables above mentioned, the population of the different townships of the county shall always be based upon the figures as shown by the last United States census; provided, however, that whenever the census of any township or townships shall have been taken under the provisions of this act, said census may become the basis of calculation.

15. Each member of the board of supervisors, six hundred dollars for all services rendered, and including mileage; provided, that when required to go on business to any point outside of said county they shall be allowed actual necessary expenses.

16. The official court reporter, for all services required of him in the superior court, excepting for transcribing his notes, a salary of one thousand five hundred dollars per annum, to be paid by the county monthly as the salaries of county officers are paid. For transcribing his notes of testimony in the superior court when required, seven cents per folio for original and four cents per folio for copies, to be paid for when completed, by the party in a civil action who directs the work to be done, but the same shall ultimately be taxed as costs in the case. In criminal proceedings in the superior court, when the judge orders the notes transcribed, the same shall be paid from the county treasury on the order of the



court. When the services of the reporter are demanded in any civil matter the clerk shall collect, each day in advance, two dollars and fifty cents from each side of the controversy, and pay the same into the county treasury. At the conclusion of the trial or proceeding in civil matters, such reporter's fees shall be taxed as costs in the same manner that other costs are taxed in such cases.

17. Members of the county board of education shall receive ten cents per mile for traveling from his or her residence to the county seat; provided, that mileage be not allowed for more than two meetings in any one month.

Sec. 170. In counties of the thirteenth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, four thousand dollars per annum.

2. The sheriff, six thousand five hundred dollars per annum, and mileage for the service of any and all processes required by law to be served by him, at the rate of ten cents per mile for every mile necessarily traveled in the performance of such duty.

3. The recorder, one thousand six hundred fifty dollars per annum, and six cents per folio for every instrument of any character transcribed by him or his deputies, which said amounts shall be paid by the county treasurer out of the county treasury.

4. The auditor, eighteen hundred dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, three thousand six hundred dollars per annum; provided, that as such tax collector, or as ex officio license collector, he shall not have or receive any compensation for, or percentage upon, the collection of any license.

7. The assessor, three thousand six hundred dollars per annum.

8. The district attorney, three thousand two hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. The justice of the peace, such fees as are now or may hereafter be allowed by law; provided, that the fees and compensation of any justice of the peace in criminal cases or proceedings to which the people of the state of California are or may be made a party shall not exceed nine hundred forty dollars for any one year.

14. Constables, such fees as are now or may be hereafter allowed by law; provided, that the fees and compensation of any constable in criminal cases or proceedings to which the people of the State of California are or may be made a party shall not exceed nine hundred dollars for any one year.

15. Each supervisor, one thousand dollars per annum, for all services performed by them as supervisors, and members of the board of equalization, and as road commissioner.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation in taking notes in civil and criminal cases tried in said court, a monthly salary of one hundred and twenty-five dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original, and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors, as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct. Whenever the services of a reporter are demanded in a civil action or proceeding, he shall collect in advance from the parties thereto, and pay into the county treasury, the sum of five dollars for each day's services in taking notes.

No fees shall be allowed the sheriff or tax col-

lector for collecting licenses in counties of this class.

This section shall take effect immediately.

Sec. 171. In counties of the fourteenth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.

2. The sheriff, six thousand dollars per annum.

3. The recorder, two thousand dollars per annum.

4. The auditor, one thousand two hundred dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, three thousand five hundred dollars per annum.

8. The district attorney, twenty-four hundred dollars per annum; assistant district attorney, nine hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law, not to exceed the sum of eighty dollars per month.

15. Each member of the board of supervisors, ten dollars per day, not exceeding six working days each month, at any regular session, and ten dollars per day while sitting as a board of equalization, or in special sessions, not to exceed fifteen working days in any one year, and mileage when acting as road commissioner, twenty-five cents per mile, one way; provided, the amount of mileage shall not exceed the sum of three hundred dollars in any one year.

This section shall take effect and be in force on and after January first, eighteen hundred and ninety-nine.

Sec. 172. In counties of the fifteenth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, twenty-five hundred dollars per annum.

2. The sheriff, thirty-five hundred dollars per annum.

3. The recorder, two thousand dollars per annum.

4. The auditor, twelve hundred dollars per annum.

5. The treasurer, fifteen hundred dollars per annum.

6. The tax collector, fifteen hundred dollars per annum.

7. The assessor, eighteen hundred dollars per annum.

8. The district attorney, eighteen hundred dollars per annum; no deputies.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, fees as are now or may hereafter be allowed by law.

14. Constables, fees as are now or may hereafter be allowed by law.

15. Each member of the board of supervisors, six hundred dollars per annum, which shall be in full for all services rendered, including mileage.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a monthly salary of eighty-five dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he

shall receive the sum of six cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors, as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

17. The compensation allowed each officer above enumerated shall be in full for all services, and shall include the pay for all deputies and copyists that may be needed in their respective offices whenever the same are allowed.

Sec. 173. In counties of the sixteenth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.

2. The sheriff, six thousand dollars per annum.

3. The recorder, thirty-two hundred dollars per annum.

4. The auditor, six hundred dollars per annum.

5. The treasurer, twenty-five hundred dollars per annum.

6. The tax collector, six hundred and fifty dollars per annum.

7. The assessor, fifty-five hundred dollars per annum.

8. The district attorney, twenty-five hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, four hundred dollars per annum.

11. The superintendent of schools, two thousand dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may hereafter be allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each supervisor, nine hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat, which shall

be full compensation for all services as supervisor and road overseer; provided, that no more than one mileage at any one term of the board shall be allowed, and that one-fourth of the annual salary shall be paid at the close of each quarterly session of the board.

16. In counties of this class, the official reporter of the superior court, such fees as are now or may be hereafter allowed by law.

Sec. 174. In counties of the seventeenth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, two thousand dollars per annum.

2. The sheriff, three thousand five hundred dollars per annum.

3. The recorder, sixteen hundred dollars per annum.

4. The auditor, fifteen hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector and license collector, two thousand dollars per annum, which shall be in full for all services as tax and license collector.

7. The assessor, fifteen hundred dollars per annum.

8. The district attorney, eighteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, sixteen hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, five hundred dollars per annum and ten cents per mile mileage in traveling to and from his residence to the county seat, and for his services as road



commissioner he shall receive twenty cents per mile, one way, for all distances actually traveled by him in the performance of his duties; provided, he shall not in any one year receive more than six hundred dollars as such road commissioner. This act, as far as it relates to the compensation of supervisors as road commissioners, shall take effect immediately after the passage of this act.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a monthly salary of sixty dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 175. In counties of the eighteenth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum.

2. The sheriff, thirty-five hundred dollars per annum. The sheriff shall also receive, in all civil cases, for his own use and benefit, the fees, commissions and mileage, which are now or which may hereafter be allowed by law, and the fees or commissions for the service of all papers whatsoever issued by any court of the state outside of his county.

3. The recorder, twenty-nine hundred dollars per annum.

4. The auditor, twelve hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, fifteen hundred dollars per



annum and five per cent. on all licenses collected by him as license collector.

7. The assessor, twenty-five hundred dollars per annum.

8. The district attorney, eighteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, sixteen hundred and fifty dollars per annum, and actual traveling expenses when visiting the schools of his county, but he shall receive no extra compensation for his services on the board of education.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may hereafter be allowed by law.

14. Constables, such fees as are now or may hereafter be allowed by law.

15. The supervisors, each the sum of five dollars per day for actual service, together with mileage at the rate of twenty cents per mile, in going only, from their residence to the county seat, at each session of the board, but not to exceed in the aggregate six hundred dollars per annum, exclusive of mileage.

Sec. 176. In counties of the nineteenth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, four thousand dollars per annum.

2. The sheriff five thousand five hundred dollars per annum.

3. The recorder, two thousand five hundred dollars per annum.

4. The auditor, one thousand eight hundred dollars per annum, and one clerk at a salary not to exceed fifty dollars per month.

5. The treasurer, one thousand eight hundred dollars per annum.

6. The tax collector, two thousand dollars per annum.

7. The assessor, four thousand dollars per annum.

8. The district attorney, fifteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor shall receive one thousand five hundred dollars per annum for all work performed for the county, and in addition thereto, actual traveling and other necessary expenses incurred in connection with field work; provided, that whenever the surveyor is directed by the assessor to plat, trace or otherwise prepare maps, plats or block book for the use of the county assessor, he shall be allowed only the actual cost of preparing the same.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

• 15. Each supervisor, five hundred dollars per annum, and ten cents per mile for traveling from his residence to the county seat; provided, that not more than one mileage for one session of the board shall be allowed. For serving as road commissioner, two hundred dollars per annum.

Sec. 177. In counties of the twentieth class the county officers shall receive, as compensation for the services required of them by law by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand two hundred and fifty dollars per annum.

2. The sheriff, six thousand dollars per annum.

3. The recorder, two thousand two hundred and fifty dollars per annum.

4. The auditor, one thousand dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, four thousand two hundred and fifty dollars per annum.

8. The district attorney, two thousand two hundred and fifty dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. Superintendent of schools, eighteen hundred dollars per annum, including services on board of education. He shall be allowed his actual traveling expenses, not to exceed three hundred dollars per annum.

12. The surveyor shall receive a per diem of ten dollars for all work performed for the county, and, in addition thereto, all necessary expenses and transportation on work performed in the field.

13. The justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may hereafter be allowed by law; provided, that the amount allowed by the board of supervisors for services in criminal actions or proceedings other than felonies, shall not exceed seventy-five dollars for any one quarter.

15. Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling to and from the county seat; provided, mileage shall not be allowed more than once a month.

16. In counties of this class, the official reporter shall receive a salary of one hundred and fifty dollars per month, payable monthly, and in the same manner and at the same time as other county officers are paid, which salary shall be in full compensation for all services, both per diem and transcription, required of him in the superior court and in the justices' courts of the county in examinations, and before the coroner in homicide cases. It shall be his duty to attend all examinations in the justice's court, and before the coroner in homicide cases when not engaged in the superior court. He shall collect and monthly pay into the county treasury ten dollars per day for taking notes, and fifteen cents per folio for transcriptions in civil cases. He shall receive his actual traveling expenses while attending justice's court and before the coroner. This subdivision shall take effect immediately.

Sec. 178. In counties of the twenty-first class county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand two hundred dollars per annum; provided, that in years when a great register is ordered the county clerk shall receive in addition to his regular salary the sum of five hundred dollars for such service.

2. The sheriff, forty-three hundred dollars per annum, and all commissions, fees, and mileage for the services of papers of process coming from courts other than those of his own county.

3. The recorder, twelve hundred dollars per annum, and five cents per folio for every instrument of any character transcribed by him or his deputies, which said amounts shall be paid out of the county treasury, and which payments shall be in full for all services, including the recording of mining claims.

4. The auditor, two thousand two hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, twenty-five hundred dollars per annum.

7. The assessor, thirty-eight hundred dollars per annum, which shall be in full for all work in his office, and for his field deputies.

8. The district attorney, eighteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may hereafter be allowed by law.

11. The superintendent of schools, two thousand dollars per annum, including services on board of education. His office shall be kept open on all business days from two to five p. m. He shall be allowed his actual traveling expenses when visiting the schools of his county.

12. The surveyor, fifteen hundred dollars per annum, and his actual traveling expenses when in the field. He shall receive eight dollars per day when engaged in official work other than county business.

13. Justices of the peace shall receive the fol-

lowing monthly salaries, to be paid each month, as salaries of the county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of eight thousand or more, seventy-five dollars per month; in townships having a population of six thousand and less than eight thousand, fifty dollars per month; in townships having a population of four thousand and less than six thousand, twenty-five dollars per month; in townships having a population of two thousand and less than four thousand, fifteen dollars per month; in townships having a population of one thousand and less than two thousand, ten dollars per month; in townships having a population of less than one thousand, five dollars per month. Each justice must pay into the county treasury, once a month, all fines collected by him in criminal cases, and the auditor shall withhold warrant for salary until a sworn statement has been filed with him of all criminal cases tried and fines collected and paid into the county treasury. In addition to the monthly salary allowed herein, each justice may receive for his own use in civil cases the fees allowed by law. For all services appertaining to the coroner's office which the coroner is unable to attend to, the justice of the peace shall receive the same fees as are allowed the coroner in similar cases.

14. Constables shall receive the following monthly salaries, to be paid each month as the salaries of county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of eight thousand or more, seventy-five dollars a month; in townships having a population of six thousand and less than eight thousand, fifty dollars a month; in townships having a population of four thousand and less than six thousand, twenty-five dollars a month; in townships having a population of two thousand and less than four thousand, fifteen dollars a month; in townships having a population of one thousand and less than two thousand, ten dollars a month; in townships having a population of less than one thousand, five dollars a month; provided further, that in addition to the salary herein allowed, each con-

stable shall be paid out of the treasury of the county for traveling expenses outside of his own township, for service of a warrant of arrest or any other paper in a criminal case, both going and returning, ten cents per mile; for each mile traveled out of his county, both going and returning from the place of arrest or other service, five cents per mile. For transporting prisoners to the county jail, the actual cost of such transportation. In addition to the monthly salary allowed him herein, each constable may receive for his own use in civil cases the fees allowed by law.

14½. The population of the several judicial townships shall be ascertained by the board of supervisors by multiplying the vote of presidential electors cast in each township at the next preceding general election by five.

15. Each supervisor, five hundred dollars per annum, and ten cents per mile for traveling from his residence to the county seat; provided, that not more than four mileages shall be allowed in any one month. When serving as road commissioner, such fees as are now or may be hereafter allowed by law.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, a monthly salary of eighty-five dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for copies of transcriptions of said notes, when required, he shall receive the sum of five cents per folio for the original, and five cents per folio for each copy. Said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

All portions of this section referring to the salaries of recorder, surveyor, justices of the peace, constables, court reporter, and mileage of supervisors, shall take effect and be in full force from and after the passage of this act.

Sec. 179. In counties of the twenty-second



class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, two thousand five hundred dollars per annum; provided, that in counties of this class, there shall be and is hereby allowed to the county clerk, a courtroom deputy, who shall be appointed by the county clerk, and paid a salary of one hundred dollars per month, said salary to be paid by said county in monthly installments, at the same time and in the same manner, and out of the same fund, as the salary of the county clerk is paid.

2. The sheriff, six thousand dollars per annum.

3. The recorder, two thousand eight hundred dollars per annum.

4. The auditor, one thousand five hundred dollars per annum.

5. The treasurer, one thousand five hundred dollars per annum.

6. The tax collector, two thousand dollars per annum.

7. The assessor, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the assessor one deputy, for a period of four months during each fiscal year, who shall be appointed by said assessor, and be paid a salary of seventy-five dollars per month, said salary to be paid by said county in monthly installments at the same time and in the same manner and out of the same fund as the salary of the assessor is paid.

8. The district attorney, two thousand five hundred dollars per annum; provided, that in counties of this class there shall be and is hereby allowed to the district attorney a deputy, who shall be appointed by said district attorney, and he shall be paid the following salary, to wit: fifty dollars per month, said salary to be paid by said county in monthly installments, at the same time and in the same manner and out of the same fund as the salary of the district attorney is paid.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.



11. The superintendent of schools, one thousand eight hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law; provided, that constables of townships containing five thousand inhabitants or more, shall be allowed as additional compensation a salary of fifty dollars per month, payable at the same time and in the same manner as the salaries of other county officials are paid.

15. Each supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat; and as road commissioner, four dollars per day, not to exceed two hundred dollars per annum in the aggregate.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, a monthly salary of one hundred and twenty-five dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 180. In counties of the twenty-third class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and five hundred dollars additional per annum for compiling great register of the county when ordered by board of supervisors.

2. The sheriff, five thousand dollars per annum, and the fees, mileage or commissions for the service of all papers whatever issued by any court outside of his county, and all mileage for service of papers issued out of any civil case in his own county.

3. The recorder, two thousand dollars per annum.

4. The auditor, five hundred dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, five hundred dollars per annum.

7. The assessor, thirty-two hundred dollars per annum.

8. The district attorney, two thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, sixteen hundred dollars per annum, and actual traveling expenses when visiting the schools in the county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may hereafter be allowed by law.

14. For the purpose of regulating the compensation of constables, townships in this class of counties are hereby classified according to their population, as shown by the federal census of eighteen hundred and ninety, as follows:

Townships having a population of five thousand or more, shall belong to and be known as townships of the first class; townships having a population of three thousand and less than five thousand, shall belong to and be known as townships of the second class; townships having a population of one thousand and less than three thousand, shall belong to and be known as townships of the third class; and townships having a population of less than one thousand, shall belong to and be known as townships of the fourth class.

Constables shall receive the following salaries, which shall be paid monthly, in the same manner as salaries of county officers are paid, and which

shall be in full of all services rendered by them in criminal cases, to wit: In townships of the first class, seventy-five dollars; in townships of the second class, fifty-five dollars; in townships of the third class, thirty dollars, and in townships of the fourth class, twenty dollars.

In addition to the monthly salaries herein allowed, each constable may receive and retain for his own use such fees as are now or may hereafter be allowed by law, for all services rendered by him in civil actions, and shall also be allowed all necessary expenses actually incurred in arresting and conveying prisoners to court or to prison, which said expenses shall be audited and allowed by the board of supervisors, and paid out of the county treasury.

The provisions of this subdivision so far as townships of the first and second classes are concerned, shall take effect and be in force sixty days from and after the passage of this act, and so far as townships of the third and fourth classes are concerned, shall take effect and be in force from and after the first day of January, eighteen hundred and ninety-nine.

15. Each supervisor, five dollars per day when the board is in session, and twenty cents per mile, in going only, for traveling from his residence to the county seat; and when serving as road commissioner, five dollars per day and actual traveling expenses. But he shall not in any one year receive more than three hundred dollars as supervisor, exclusive of mileage, or more than two hundred dollars as road commissioner, exclusive of actual traveling expenses.

Sec. 181. In counties of the twenty-fourth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, three thousand dollars per annum, and when a new great register of voters is ordered, he shall receive five hundred dollars additional, which shall be in full for all services required in registering voters and making the great register.

2. The sheriff, four thousand five hundred dollars per annum.

3. The recorder, two thousand five hundred dollars per annum.

4. The auditor, one thousand two hundred dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, twelve hundred dollars per annum.

7. The assessor, three thousand dollars per annum.

8. The district attorney, twenty-three hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The county surveyor shall receive as compensation eight dollars per day for all personal work performed for the county, and in addition thereto all necessary expenses and transportation on work performed in the field.

13. Justices of the peace, the following monthly salaries, to be paid each month as the county officers are paid, which shall be in full for all services rendered by them in criminal cases: In townships having a population of two thousand five hundred and more, sixty-five dollars; in townships having a population of one thousand five hundred and less than two thousand five hundred, forty dollars; in townships having a population of one thousand and less than one thousand five hundred, twenty-five dollars; in townships having a population of less than one thousand, ten dollars. Each justice must pay into the county treasury, once a month, all fines collected by him. In addition to the monthly salary allowed herein, each justice may receive for his own use such fees as are now or may hereafter be allowed by law for all services performed by him in civil actions. In all townships having a population of less than two thousand five hundred, if there be more than one justice, the compensation allowed herein shall be equally divided between

them so that the sum total of their monthly compensation shall not exceed the salary allowed herein for a single justice in such township.

14. Constables, the following salaries, which shall be paid monthly, as salaries of county officers are paid, and which shall be in full for all services rendered by them in criminal cases, to wit: In townships having a population of two thousand five hundred or more, seventy dollars; in townships having a population of one thousand five hundred and less than two thousand five hundred, forty-five dollars; in townships having a population of one thousand and less than one thousand five hundred, thirty dollars; in townships having a population of less than one thousand, fifteen dollars. In addition to the monthly salary allowed herein, each constable may receive and retain for his own use such fees as are now or hereafter may be allowed by law for all services performed by him in civil actions. In all townships having a population of less than two thousand five hundred, if there be more than one constable, the compensation herein allowed shall be equally divided between them, so that the sum total of their monthly compensation shall not exceed the salary allowed herein for a single constable in such township.

14½. The supervisors of counties of this class shall, during each and every year, ascertain and determine the population of the several townships of the county for the purpose of ascertaining the compensation of township officers regulated by this act, in proportion to their duties.

15. Each supervisor, five hundred dollars per annum and thirty cents per mile for traveling from his residence to the county seat.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and when requested by the district attorney in preliminary examinations and inquests, a monthly salary of one hundred dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents

per folio for a copy; said compensation for transcription in criminal cases, preliminary examinations, and inquests, to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge by either party, or jointly by both parties, as the court may direct.

Sec. 182. In counties of the twenty-fifth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, five thousand dollars per annum.

2. The sheriff, seven thousand dollars per annum. He may retain for his own use the mileage and fees for the service of papers or process issued by any court of this state outside of his own county.

3. The recorder, sixteen hundred dollars per annum and seven cents for each folio recorded.

4. The auditor, two thousand dollars per annum.

5. The treasurer, two thousand dollars per annum.

6. The tax collector, three thousand dollars per annum.

7. The assessor, five thousand dollars per annum.

8. The district attorney, four thousand dollars per annum; provided, that he shall be disqualified from engaging in any cause or action to which the county or state is not a party.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, which shall include his services as member of the board of education.

12. The surveyor shall receive twelve hundred dollars per annum and traveling and official expenses in the county.

13. In counties of this class the township officers shall receive the following compensations, to



wit: In townships having a population of four thousand, justices of the peace shall receive a monthly salary of one hundred and twenty-five dollars, and constables a monthly salary of one hundred and twenty-five dollars; the above-named salaries shall be in full compensation for all services of said justices of the peace in both civil and criminal cases, and all fees allowed by law for the services of such officers in civil cases shall be paid into the county treasury as the fees of county officers are paid in, but constables may retain for their own use the fees allowed by law in civil cases. In townships having a population of nine hundred and less than four thousand, each justice of the peace and each constable shall receive such fees as are now or may hereafter be allowed by law, not exceeding in any one month the sum of one hundred dollars in criminal cases. In townships containing a population of less than nine hundred, each justice of the peace and each constable shall receive the fees that are now or may hereafter be allowed by law, not exceeding in any one month the sum of forty dollars in criminal cases. The supervisors of counties of this class shall ascertain and determine, on or before the first day of June, eighteen hundred and ninety-seven, the population of the several townships in the county.

14. Each supervisor, six dollars per day while in the service of the county, and thirty cents per mile for traveling from his residence to the county seat.

Sec. 183. In counties of the twenty-sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, thirty-two hundred and fifty dollars per annum.

2. The sheriff, five thousand dollars per annum, and such mileage as is now allowed by law; also, for expenses in all criminal cases and all fees for service of papers in actions arising outside of his county.

3. The recorder, thirty-two hundred and fifty dollars per annum.

4. The auditor, eighteen hundred dollars per annum.



5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, eighteen hundred dollars per annum.

7. The assessor, thirty-two hundred and fifty dollars per annum.

8. The district attorney, twenty-five hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables of townships numbers one, two, eight and ten, forty dollars per month, their actual traveling expenses, half the fees in criminal cases and such fees as are now or may hereafter be allowed by law in civil cases.

Constables of townships number five, twenty-five dollars per month, their actual traveling expenses, half the fees in criminal cases, and such fees as are now or may hereafter be allowed by law in civil cases.

Constables of townships numbers three, four, six and nine, twenty dollars per month, their actual traveling expenses, half the fees in criminal cases, and such fees as are now or may hereafter be allowed by law in civil cases.

Constables of township number seven, ten dollars per month, their actual traveling expenses, half the fees in criminal cases, and such fees as are now or may hereafter be allowed by law in civil cases; provided, however, that no constable shall be allowed in any one month, out of the county treasury, more than fifty dollars in misdemeanor cases.

15. Each member of the board of supervisors, three hundred dollars per annum; and as road commissioner, three hundred dollars per annum.

16. The compensation herein provided for constables shall take effect immediately and affect incumbents.

Sec. 184. In counties of the twenty-seventh class the county officers shall receive, as compensation for services required of them by law or by virtue of their offices, the following salaries and fees, to wit:

1. The county clerk, thirteen hundred dollars per annum; provided, that in counties of this class there shall be two deputy county clerks, who shall be appointed by the county clerk. The salary of one of said deputy county clerks shall be seven hundred and twenty dollars per annum, and the salary of the other of said deputy county clerks shall be five hundred and forty dollars per annum; said salaries of said deputy county clerks to be payable at the same time and in the same manner and out of the same fund as the salary of the county clerk.

2. The sheriff, three thousand nine hundred dollars per annum.

3. The recorder, twenty-five hundred dollars per annum.

4. The auditor, fifteen hundred dollars per annum.

5. The treasurer, twelve hundred dollars per annum.

6. The tax collector, fifteen hundred dollars per annum; provided, that when the duties of the office of treasurer and tax collector are consolidated, as provided in section fifty-five of this act, that the full compensation of said office of treasurer and tax collector for such consolidated duties shall be twenty-five hundred dollars per annum.

7. The assessor, fifteen hundred dollars per annum; provided, that in counties of this class there shall be five field deputy assessors, who shall be appointed by the assessors of said county, and who shall hold office from twelve o'clock meridian of the first Monday of March of each year, up to twelve o'clock meridian of the first Monday in July of each year. The salary of each of said five deputy assessors herein provided for, is hereby fixed at the sum of one hundred dollars per month, to include horse hire and traveling expenses for each month during which they hold office as herein provided, which said salary shall be paid by said county at the same time and in the same manner and out of the same fund as the salary of the assessor.

8. The district attorney, fifteen hundred dollars per annum. No assistant district attorney shall be appointed in counties of the twenty-seventh class.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars per annum, and actual traveling expenses when visiting the schools of the county.

12. The surveyor, eight dollars per day while actually employed by the county.

13. Justices of the peace, such fees as are now or may hereafter be allowed by law.

14. Constables, such fees as are now or may hereafter be allowed by law.

15. Supervisors, four hundred dollars each per annum, and mileage at the rate of ten cents per mile in going to and coming from the place of meeting of the board; provided, that not more than four mileages in any one month shall be allowed.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes, when his services are demanded, in civil cases, and in all criminal cases and matters tried or heard in said court, and when requested by the district attorney, for preliminary examinations in justice's court, and inquests, a monthly salary of fifty dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers, and for transcription of said notes when required, he shall receive not to exceed the sum of ten cents per folio for the original, and not to exceed five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

It is further provided that in each civil case reported by the official reporter there shall be taxed as costs in the case seven dollars and fifty cents

per diem for each day of the trial thereof. Such per diem fee shall be paid to the clerk of the court in advance by the party requesting the service of the reporter, and where his services are requested by more than one party, then such fees shall be paid in equal proportions by each of said parties. All per diem fees so collected shall be paid by said clerk into the treasury of the county in which the case is tried.

Sec. 185. In counties of the twenty-eighth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, twenty-four hundred dollars per annum.

2. The sheriff, six thousand dollars per annum.

3. The recorder, eighteen hundred dollars per annum.

4. The auditor, six hundred dollars per annum.

5. The treasurer, fifteen hundred dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, twenty-four hundred dollars per annum.

8. The district attorney, eighteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, fifteen hundred dollars per annum, and his reasonable traveling expenses incurred in visiting schools of the county, to be fixed and allowed by the board of supervisors, not to exceed the sum of five hundred dollars per annum; provided, he shall devote his entire time to the duties of said office.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, five hundred dollars per annum, and mileage at

the rate of twenty cents per mile from his home to and from the county seat.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a monthly salary of seventy-five dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for a transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 186. In counties of the twenty-ninth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The county clerk, eighteen hundred dollars per annum.

2. The sheriff fifty-one hundred (5,100) dollars per annum, which includes the fifteen hundred dollars heretofore allowed the under sheriff. He shall also have for his own use all fees for service of all papers served by him and issued without his county. The said fifty-one hundred dollars to be in full of all fees or percentages as license collector.

3. The recorder, twenty-eight hundred dollars per annum, in full of all services, including filing or recording mining location notices.

4. The auditor, twelve hundred dollars per annum.

5. The treasurer, eighteen hundred dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, twelve hundred dollars per annum, and he is hereby allowed in addition thereto five deputies, to be appointed by him, who shall

each receive five dollars per day for not exceeding three months in any calendar year, while engaged in the performance of their duties.

8. The district attorney, eighteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eighteen hundred dollars per annum, and necessary expenses for traveling in visiting schools in the county, to be allowed by the supervisors of the county.

12. The surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs a surveyor or civil engineer; and provided further, that it shall be the duty of the board of supervisors of counties of this class to so employ him.

13. In counties of this class justices of the peace may, for their own use, collect the following fees, and no other:

Each justice of the peace shall be allowed, in a civil action before him, for all services to be performed by him before trial, three dollars; and for the trial, and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, and the entry of judgment and issue of execution thereon, four dollars; and fifteen cents for each hour actually engaged in such trial after the expiration of eight hours; and in all cases where judgment is rendered by default or confession, for all services, including execution and satisfaction of judgment, three dollars.

For all services in a criminal action or proceeding whether on examination or trial, four dollars.

For taking bail after commitment by another magistrate, fifty cents.

For certificate and transmitting transcript and papers on appeal, one dollar.

For copies of papers on docket, per folio, ten cents.

For issuing a search warrant, to be paid by the party demanding the same, fifty cents.

For celebrating a marriage and returning a cer-



tificate thereof to the county recorder, three dollars.

For taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents.

For taking depositions, per folio, fifteen cents.

For administering an oath and certifying the same, twenty-five cents.

For issuing a commission to take testimony, fifty cents.

For all services connected with the posting of estrays, one dollar.

In cases before the justice of the peace, when the venue shall be changed, the justice before whom the action shall be brought, for all services rendered, including the making up and transmission of the transcript and papers, shall receive three dollars; and the justice before whom the trial shall take place shall receive the same fees as if the action had been commenced before him.

For performing the duties of coroner, when the coroner fails to act, the same fees and mileage as are allowed the coroner in like cases.

For issuing each process, writ, order or paper required by law to be issued, not otherwise provided for, twenty-five cents.

For administering oath or affirmation not otherwise herein provided for, twenty-five cents.

For each certificate or affidavit not otherwise herein provided for, twenty-five cents.

For taking and approving bond or undertaking, including the justification of sureties, fifty cents.

14. In counties of this class, constables shall receive:

For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when made by him, twenty-five cents.

For levying writ of attachment or execution or executing order of arrest or for the delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat, or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than two dollars per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.



For copies of writ and other papers, except summons, complaint and subpoenas, per folio, ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for such copies.

For serving any writ, notice, or order, except summons, complaint or subpoenas, for each person served, fifty cents.

For writing and posting each notice of sale of property, fifty cents.

For furnishing notice for publication, twenty-five cents.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one half per cent.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order or paper, except a warrant of arrest, in going only, per mile, twenty-five cents.

For traveling outside of his township to serve such writ, order or paper, in going only, twenty-five cents; provided, that a constable shall not be required to travel outside of his township to serve any civil process, order or paper. No constructive mileage allowed.

For conveying prisoners to county jail, traveling expenses.

For each mile necessarily traveled within his county, in executing a warrant of arrest, both in going and returning from place of arrest, fifteen cents.

For each mile traveled out of his county, both going and returning from place of arrest, ten cents.

For each day's attendance in court in civil and criminal cases, three dollars per day.

For executing a search warrant, such fees and mileage as may be allowed for executing warrant of arrest.

For arresting prisoner and bringing him into court, two dollars.

For summoning a jury, two dollars, including mileage.

For transporting prisoners to the county jail, the actual cost of such transportation.

For commissions for receiving and paying over money on execution without levy, or when the goods or land levied on shall not be sold, one per cent. The fees herein allowed for the levy of an execution, and for making or collecting the money on execution, shall be collected from the judgment debtor, by virtue of such execution, in the same manner as the sum herein directed to be paid.

County officers must, and township officers may, demand the payment of all fees in civil cases in advance.

In counties of this class justices of the peace and constables shall be entitled to collect and receive the fees provided in this section, from and after the passage of this act.

15. Each member of the board of supervisors, five hundred dollars per annum and ten cents per mile in going from residence to the county seat.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a monthly salary of seventy-five dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 187. In counties of the thirtieth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The county clerk, two thousand seven hundred dollars per annum.

2. The sheriff, four thousand dollars per annum. Also, the following fees, to be audited and

paid as other county charges: For serving warrant of arrest, two dollars; for every mile necessarily traveled in executing any warrant of arrest, twenty-five cents per mile; for taking prisoners to magistrate or to jail, the actual cost of transportation.

3. The recorder, two thousand five hundred dollars per annum.

4. The auditor, one thousand five hundred dollars per annum.

5. The treasurer, one thousand six hundred dollars per annum.

6. The tax collector, two thousand dollars per annum.

7. The assessor, three thousand two hundred dollars per annum.

8. The district attorney, one thousand eight hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of his county; provided, that such traveling expenses shall be allowed and paid as other county charges, and shall not exceed ten dollars per district for the districts actually visited in any calendar year.

12. The county surveyor shall receive one thousand eight hundred dollars per annum, and the necessary cost of transportation to and from, and necessary expenses while in the field when engaged on public work.

13. Justices of the peace, fees as follows: In a civil action before him, for all services to be performed by him before trial, two dollars; and for the trial and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, and the entry of judgment and issue of execution thereon, three dollars; and twenty-five cents for each hour after the first six hours actually engaged in such trial; and in all cases where judgment is rendered by default or confession, for all services, including execution and satisfaction of judgment, two dollars.

For copies of papers on docket, per folio, fifteen cents.

For issuing a search warrant, to be paid by the party demanding the same, fifty cents.

For certificate, and transmitting transcript and papers on appeal, two dollars.

For celebrating a marriage and returning a certificate thereof to the county recorder, three dollars.

For taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents.

For issuing a commission to take testimony, fifty cents.

For all services in a criminal action or proceeding, whether on examination or trial, three dollars; and twenty-five cents for each hour after the first six hours actually engaged in the trial or hearing of such action or proceeding.

For taking depositions, per folio, fifteen cents.

For administering an oath and certifying the same, twenty-five cents.

For taking bail after commitment by another magistrate, fifty cents.

For all service connected with the posting of estrays, one dollar.

In cases before the justice of the peace, when the venue shall be changed, the justice before whom the action shall be brought, for all service rendered, including the making up and transmission of the transcript and papers, shall receive one dollar; and the justice before whom the trial shall take place shall receive the same fee as if the action had been commenced before him.

For performing the duties of coroner, when the coroner fails to act, the same fees and mileage as are allowed the coroner in like cases.

For issuing each process, writ or order, or paper required by law to be issued not otherwise herein provided for, twenty-five cents.

For administering oath or affirmation not otherwise herein provided for, twenty-five cents.

For each certificate or affidavit not otherwise herein provided for, twenty-five cents.

For taking and approving bonds or undertaking, included the justification of sureties, fifty cents; provided, that no justice of the peace, in counties of this class, shall receive, in any one month, more than seventy-five dollars in misde-

meanor criminal cases; provided further, that each justice of the peace shall file with the county auditor on or before the first Monday in each month a statement of all fines collected by him the preceding month, and shall pay into the county treasury the amount due the county on account of such fines. No claim of a justice of the peace shall be allowed by the board of supervisors for any month until such statement and payment are made.

14. Constables, fees as follows: For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest, or for the delivery of personal property, one dollar and fifty cents.

For serving writ of attachment or execution on any ship, boat, or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than two dollars per day shall be allowed for a keeper, when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writs or other papers, except summons, complaint, and subpoenas, per folio, fifteen cents; provided, that when correct copies are furnished him for use, five cents per folio may be charged by him.

For serving any writ, notice, or order, except summons, complaint, or subpoenas, for each person served, fifty cents.

For advertising property for sale on execution, or under any judgment or order of sale, exclusive of the cost of publication, one dollar.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one-half per cent.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering Constable's deed, two dollars.

For each mile actually and necessarily traveled within his township in the service of any writ, order, or paper, except a warrant of arrest, in

going only, twenty cents per mile. No constructive mileage allowed.

For each mile necessarily traveled within his county in executing a warrant of arrest, both in going and returning from place of arrest, fifteen cents, provided that in traveling in the performance of two or more official services at the same time, including the service of civil process or criminal warrants, or transportation of persons charged or convicted of a criminal offense, but one mileage shall be charged.

For each mile necessarily traveled outside his county, in executing a warrant of arrest, both in going and returning from place of arrest, ten cents; provided, that for traveling in the performance of two or more official service at the same time, including the service of civil process or criminal warrants, or transportation of persons charged or convicted of a criminal offense, but one mileage shall be charged.

For executing a search warrant, such fees and mileage as may be allowed for executing warrant of arrest.

For arresting prisoner, except on a charge of vagrancy, and bringing him into court, two dollars.

For arresting a person on a charge of vagrancy, and bringing him into court, twenty-five cents.

For summoning a jury, two dollars, including mileage.

For transporting prisoners to the county jail, the actual cost of transporting such prisoners, and mileage at fifteen cents per mile in going only; provided, that in traveling to the county jail with two or more prisoners, but one mileage shall be charged.

For making sales of estrays in civil cases, the same fees as for sales on execution.

For commissions for receiving and paying over money on execution or other process when lands or personal property have been levied on and sold, on the first thousand dollars, one and one-half per cent. On all sums above that amount, one per cent.

For commissions for receiving and paying over money on execution without levy, or when the goods or land levied on shall not be sold, one per cent. The fees herein allowed for the levy of an



execution, and for advertising, and for making or collecting the money on execution, shall be collected from the judgment debtor, by virtue of such execution, in the same manner as the sum therein directed to be made.

For serving writ of possession or restitution, putting a person in possession of the premises, and removing the occupants, three dollars.

For attending court, twenty-five cents for each hour in excess of ten hours actually engaged in attending the trial of the case or upon the examination of a criminal charge before a magistrate.

Provided, that in counties of this class no constable shall receive, in any one month, more than one hundred dollars for all services in misdemeanor criminal cases.

15. Each Supervisor, six dollars per day when the board is in session, and twenty cents per mile for traveling from his residence to the county seat. For services as road commissioner, four dollars per day, not to exceed one hundred and fifty dollars per annum.

16. In counties of this class the official reporter of the Superior Court shall receive, as full compensation for taking notes in all civil and criminal causes and proceedings in said county, and for taking notes of the proceedings and testimony at all Coroner's inquests in the county and for taking notes of the testimony and proceedings in all examinations before committing magistrates, and for taking notes of the testimony and proceedings of cases and commissions for the examination of persons charged with being of unsound mind, a monthly salary of one hundred dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for the transcription of said notes, when the transcription thereof is required, by law, or by order of the court, or by demand of any party to the suit or proceeding, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in all criminal cases and Coroner's inquests and examinations of persons charged with being of unsound mind to be audited and allowed by the Board of Supervisors, as other



claims against the county, and in civil cases and proceedings to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, when and in such proportions as the court may direct. When necessary for such reporter to travel away from the county seat in the performance of his duty, he shall receive his actual and necessary traveling expenses, to be allowed and paid by the Board of Supervisors as are other county charges.

Sec. 188. In counties of the thirty-first class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The County Clerk, one thousand five hundred dollars per annum.

2. The Sheriff, three thousand five hundred dollars per annum, and a jailer at fifty dollars per month, to be paid out of the county treasury.

3. The Recorder, one thousand five hundred dollars per annum.

4. The Auditor, one thousand dollars per annum.

5. The Treasurer, one thousand two hundred dollars per annum.

6. The Tax Collector, twelve hundred dollars per annum, and a deputy at four dollars per day for not more than one hundred days in any one year, to be paid out of the county treasury; provided, that no fees or compensation other than the compensation provided for in this section be allowed the Sheriff or Tax Collector for the collection of licenses in counties of this class.

7. The Assessor, two thousand dollars per annum, and two deputies at a salary of five dollars per day for not more than one hundred days in any one year, to be paid out of the county treasury. •

8. The District Attorney, one thousand four hundred dollars per annum, and twenty-five dollars for every conviction in any court, not exceeding five hundred dollars in any one year.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, one thou-

sand dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The Surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs one surveyor or civil engineer.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each Supervisor, six hundred dollars and twenty cents per mile traveling to county seat, which shall be in full compensation for all services, both as Supervisor and Road Commissioner; provided, that in case the said Supervisors shall not serve as road commissioners, then the salary for Supervisor shall be four hundred dollars per annum.

Sec. 189. In counties of the thirty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The County Clerk, one thousand five hundred dollars per annum.

2. The Sheriff, four thousand two hundred and fifty dollars per annum; provided, the Sheriff shall also receive for his own use and benefit his necessary expenses in all criminal cases, to be allowed as other county charges are allowed by law; and provided further, that the Sheriff shall also receive, for his own use and benefit, the mileage, fees, and commission for all service of all papers whatsoever issued by any court of the State outside of his county.

3. The Recorder, one thousand eight hundred dollars per annum.

4. The Auditor, one thousand dollars per annum.

5. The Treasurer, one thousand eight hundred dollars per annum.

6. The Tax Collector, five hundred dollars per annum; provided, as License Collector, he shall, in addition, be entitled to receive and retain for his own use and benefit, ten per centum on all licenses collected by him.

7. The Assessor, one thousand eight hundred

dollars per annum, and one deputy at not to exceed five dollars per day, for not more than one hundred and twenty-five days in any year, to be paid out of the county treasury.

8. The District Attorney, one thousand eight hundred dollars per annum; provided, he may charge and receive for his own use necessary expenses for traveling on county and public business, to be allowed as other county charges are allowed by law.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county. And if the Board of Supervisors provide that he shall not engage in teaching, then he shall receive one thousand two hundred dollars per annum, and traveling expenses, not to exceed three hundred dollars per annum, which expenses are to be allowed and paid as a county charge.

12. The Surveyor, such fees as are now or may be hereafter allowed by law; provided, he shall be given all work for the county in which the county employs one surveyor or civil engineer.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each Supervisor, four hundred dollars per annum, and ten cents per mile for traveling to and from his residence to the county seat at each session; and, unless otherwise provided by law, when serving as road commissioner, three dollars per day. But he shall not in any one year receive more than three hundred dollars for services as such road commissioner.

16. In counties of this class the official reporter of the Superior Court shall receive for his services in taking notes in civil and criminal cases tried in said courts and in examinations for committal to the asylum for the insane, such fees as may be allowed by the court. The official reporter for services in taking notes in inquests before the Coroner and examinations before magistrates,

such fees as may be allowed by the Board of Supervisors. For transcription of notes, in either of the above cases, when required, the official reporter shall receive not exceeding ten cents per folio for the original and not exceeding five cents per folio for a copy. Said compensation for taking notes and transcribing the same in criminal cases and in cases in which the county may be a party, to be audited and allowed by the Board of Supervisors as other claims against the county, and paid out of the county treasury; and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party to an action or proceeding, when and in such proportion as the court may direct. Fees for transcription of notes in cases or proceedings in the Superior Court shall be fixed by the court, and for transcription of notes in inquests before the Coroner, or examinations before magistrates, shall be fixed by the Board of Supervisors.

The provisions of this section shall take effect immediately, except as to subdivision three thereof, which subdivision shall take effect on the first Monday after the first day of January, eighteen hundred and ninety-nine.

Sec. 190. In counties of the thirty-third class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The County Clerk, two thousand dollars per annum.

2. The Sheriff, four thousand dollars per annum, and all mileage for the service of papers issued out of any court outside of his county.

3. The Recorder, one thousand dollars per annum.

4. The Auditor, five hundred dollars per annum.

5. The Treasurer, one thousand five hundred dollars per annum.

6. The Tax Collector, five hundred dollars per annum, and ten per cent on all licenses collected by him as License Collector.

7. The Assessor, four thousand dollars per annum.

8. The District Attorney, one thousand five hundred dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, fifteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the Board of Supervisors, four hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat.

Sec. 191. In counties of the thirty-fourth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The County Clerk, two thousand seven hundred dollars per annum.

2. The Sheriff, five thousand dollars per annum and fees, commissions, and mileage for the service of papers or process coming from courts other than those of his own county.

3. The Recorder, one thousand six hundred dollars per annum; provided, that such Recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected; and provided, that when the amount of said fees collected shall exceed two hundred and fifty dollars in any month, the Recorder may receive and retain for his own use, in addition to his salary, one-half of all fees in excess of two hundred and fifty dollars in any month so collected. But the amount of fees thus received by the Recorder for his own use, plus his salary, shall not exceed the sum of two thousand two hundred dollars in any one year.

4. The Auditor, sixteen hundred dollars per annum.

5. The Treasurer, one thousand six hundred dollars per annum.

6. The Tax Collector, one thousand dollars per annum.

7. The Assessor, two thousand eight hundred dollars per annum; provided, that the Assessor shall annually revise the plats of his office and prepare the military roll at his own cost and expense. All portions of this section referring to the revision of the Assessor's plats and to preparing the military roll shall take effect from and after the passage of this Act.

8. The District Attorney, two thousand dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, one thousand two hundred dollars per annum, including services on the Board of Education. He shall be allowed his actual traveling expenses when visiting the schools of his county, which expenses shall not exceed the sum of five hundred dollars in any one year. In the event that said superintendent of schools shall appoint a deputy, or commissioner of schools, the same shall be at his own cost and expense.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Supervisors, each the sum of six hundred dollars per annum for all services performed by them as Supervisors, and members of the board of equalization and road commissioners, including mileage; provided, that each Supervisor shall receive ten cents for each mile traveled by the ordinary route, in going from his residence to the county seat and returning once during each meeting. Each Supervisor shall be allowed his actual expenses while supervising the roads of his district, not exceeding ten dollars in any one month.

This Act, so far as it relates to the compensation of Supervisors, and to their compensation as road commissioners in counties of the thirty-fourth class shall take effect immediately after its passage.

16. The official reporter of the Superior Court



in counties of the thirty-fourth class, shall receive as full compensation for taking notes when his services are demanded in civil cases, and in criminal cases tried in said court, and when requested by a Justice of the Peace, Coroner, or District Attorney in preliminary examinations, or inquests, a salary of one thousand five hundred dollars per annum, payable in equal monthly installments, out of the county treasury at the same time and in the same manner as the salaries of county officers. He shall also be allowed his actual traveling expenses when reporting outside of the county seat.

When the services of the reporter are demanded in any civil matter, there shall be taxed as costs in the case eight dollars per diem for each day of the trial thereof, to be paid to the clerk of the court in advance, one-half by each side; for transcription of said notes in criminal cases and in civil cases, when required, said reporter shall receive not to exceed ten cents per folio of one hundred words for the original and five cents per folio for copy. Where the reporter is required to transcribe the whole or any part of the testimony during the taking of testimony in the Superior Court, he shall be entitled to receive and retain for his own use, not to exceed fifteen cents per folio for the original, and seven and one-half cents per folio for each copy. Said compensation to be paid for, in civil cases, by the party ordering the same, and in criminal cases, together with said traveling expenses, to be audited and allowed by the Board of Supervisors as other claims against the county, and paid out of the county treasury. Per diem fees so collected by the clerk shall be paid into the county treasury on the first Monday of each month.

This act, so far as it relates to the service and compensation of said official reporter, shall take effect immediately after its passage.

Sec. 192. In counties of the thirty-fifth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The County Clerk, three thousand dollars per annum.

2. The Sheriff, four thousand five hundred dollars.

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lars per annum, and mileage at the rate of twenty-five cents per mile necessarily traveled, in going only.

3. The Recorder, two thousand five hundred dollars per annum.

4. The Auditor, one thousand five hundred dollars per annum.

5. The Treasurer, one thousand five hundred dollars per annum.

6. The Tax Collector, two thousand dollars per annum.

7. The Assessor, four thousand dollars per annum.

8. The District Attorney, one thousand eight hundred dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, one thousand five hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each Supervisor, six hundred dollars per annum, and twenty cents per mile for traveling from his residence to the county seat; provided, that when a Supervisor is also road commissioner, he shall receive, in addition to the twenty cents per mile allowed to him by law as such road commissioner, his actual traveling expenses, the total mileage and expenses not in any one year to exceed the sum of three hundred dollars.

Sec. 193. In counties of the thirty-sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The County Clerk, twenty-two hundred dollars per annum.

2. The Sheriff, forty-five hundred dollars per annum.

3. The Recorder, eighteen hundred dollars per annum.

4. The Auditor, one thousand dollars per annum.

5. The Treasurer, fifteen hundred dollars per annum.

6. The Tax Collector, one thousand dollars per annum, and five per cent on all licenses collected by him as License Collector.

7. The Assessor, two thousand dollars per annum.

8. The District Attorney, eighteen hundred dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, fifteen hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each Supervisor, six dollars per day when the board is in session, and mileage at the rate of ten cents per mile for traveling to and from his residence to the county seat once each session. For services as road commissioner, three dollars per day while engaged as such commissioner; provided, however, the amount so allowed as such commissioner shall not exceed three hundred dollars in any one year.

Sec. 194. In counties of the thirty-seventh class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The County Clerk, three thousand dollars per annum.

2. The Sheriff, four thousand dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.

3. The Recorder, one thousand five hundred dollars per annum.

4. The Auditor, one thousand dollars per annum.

5. The Treasurer, one thousand five hundred dollars per annum.

6. The Tax Collector, one thousand dollars per annum, which shall be in full for all services as Tax Collector and as License Collector.

7. The Assessor, two thousand five hundred dollars per annum.

8. The District Attorney, two thousand dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, one thousand two hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the Peace, the fees which now are or hereafter may be allowed by law.

14. Constables, the fees which now are or hereafter may be allowed by law.

15. Each member of the Board of Supervisors, five hundred dollars per annum, and his necessary expenses when attending to the business of the county other than the meetings of the board, and twenty cents per mile in going from his residence to the county seat at each meeting of the board; and when serving as road commissioner, three dollars per day, and twenty cents per mile one way, for all actual distances traveled by him in the performance of his duties as such commissioner.

16. In counties of this class the official reporter of the Superior Court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in Justices' Courts, a monthly salary of one hundred dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original, and five cents per folio for a copy; said

compensation for transcription in criminal cases to be audited and allowed by the Board of Supervisors as other claims against the county, and paid out of the county treasury; and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 195. In counties of the thirty-eighth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The County Clerk, two thousand five hundred dollars per annum.

2. The Sheriff, four thousand five hundred dollars per annum.

3. The Recorder, one thousand six hundred dollars per annum.

4. The Auditor, one thousand dollars per annum.

5. The Treasurer, one thousand eight hundred dollars per annum.

6. The Tax Collector, one thousand dollars per annum.

7. The Assessor, two thousand five hundred dollars per annum.

8. The District Attorney, one thousand eight hundred dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, one thousand six hundred and fifty dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law, and in addition thereto three dollars per day for each day's actual attendance in court when ordered to be there by the Justice or Recorder; provided, that no Constable shall receive more than three dollars for any one day's attendance on any court.

15. Each Supervisor, five dollars per day when the board is in session, not exceeding five hundred dollars per annum, and ten cents per mile for traveling to and from his residence to the county seat at each session.

16. The compensation herein provided for Constables shall take effect immediately and affect incumbents.

Sec. 196. In counties of the thirty-ninth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The County Clerk, two thousand four hundred dollars per annum.

2. The Sheriff, four thousand dollars per annum, and the fees or commissions for the service of all papers issued by any court of the State outside of his county. Also his actual traveling expenses in the execution of a warrant outside of his county issued by a magistrate or court of his county.

3. The Recorder, eighteen hundred dollars per annum.

4. The Auditor, one thousand eight hundred dollars per annum.

5. The Treasurer, one thousand six hundred dollars per annum.

6. The Tax Collector, one thousand two hundred dollars per annum.

7. The Assessor, three thousand dollars per annum.

8. The District Attorney, two thousand dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, one thousand six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The Surveyor, fifteen hundred dollars per annum, which shall be in full for all services required of him by the Superior Court or the Board of Supervisors, and as ex officio County Recorder; provided, that he shall be entitled to receive

from the county his actual and necessary traveling expenses, incurred in the performance of any order of the court or Board of Supervisors; for all other services, the fees allowed by law.

13. Justices of the Peace, such fees as are now or may hereafter be allowed by law; provided, that the fees for services rendered in criminal cases, and which are chargeable against the county, shall not exceed in the aggregate for any one month sixty dollars; provided, that this provision shall not affect their right to collect fees for services rendered as Coroner, when acting as such.

14. Constables, such fees as are now or may hereafter be allowed by law; provided, that the fees for services rendered in criminal cases, and which are chargeable against the county, shall not exceed in the aggregate for any one month sixty dollars; provided, also, that he shall be paid by the county his actual and necessary expenses incurred in conveying prisoners to the county jail; provided further, that he be allowed his actual and necessary expenses incurred in executing any warrant outside of his county issued by a magistrate or justice of his county, not to exceed in the aggregate a sum equal to ten cents per mile necessarily traveled outside of his county in the execution of such warrant. The items of expense herein provided which may be allowed Constables shall not be charged to him in making up the maximum fees which he may collect from the county in criminal proceedings.

15. Each Supervisor, six dollars per day, while attending sessions of the board, and while engaged in the performance of the duties of road commissioners, and mileage at the rate of twenty cents per mile, for traveling from residence to county seat in attendance upon a regular session of the board.

16. The official reporter, such fees as are now provided by law.

17. This act, so far as it relates to counties of the thirty-ninth class, shall take effect immediately as to the offices of Surveyor, Justices of the Peace, and Constables, but shall not affect the compensation of other officers during their present term of office.

Sec.-197. In counties of the fortieth class the



county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The County Clerk, twenty-four hundred dollars per annum.

2. The Sheriff, thirty-five hundred dollars per annum.

3. The Recorder, fifteen hundred dollars per annum.

4. The Auditor, one thousand dollars per annum.

5. The Treasurer, twelve hundred dollars per annum.

6. The Tax Collector, one thousand dollars per annum, and ten per cent of all licenses collected by him.

7. The Assessor, twenty-six hundred dollars per annum.

8. The District Attorney, fourteen hundred dollars per annum.

9. The Coroner, five hundred dollars per annum.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, nine hundred dollars per annum, and actual traveling expenses while visiting the schools of his county.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may hereafter be allowed by law; provided, that Constables of townships containing three thousand inhabitants, or more, shall be allowed as additional compensation a salary of thirty dollars per month, payable at the same time and in the same manner as the salaries of other county officers are paid.

15. Each member of the Board of Supervisors, seven dollars per diem when the board is in session, and twenty-five cents per mile for traveling to and from his residence to the county seat, but he shall not in any one year receive more than five hundred dollars as Supervisor.

16. In counties of this class the official reporter of the Superior Court shall receive, as full com-



compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in Justices' Courts, a monthly salary of one hundred dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the Board of Supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 198. In counties of the forty-first class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The County Clerk, two thousand two hundred dollars per annum.

2. The Sheriff, five thousand dollars per annum, and fees, commissions, and mileage for the service of papers or process coming from courts other than those in his own county.

3. The Recorder, one thousand six hundred dollars per annum; provided, that such Recorder shall collect and pay into the county treasury, for the use and benefit of the county, the fees required by law to be so collected: and provided, that when the amount of said fees collected shall exceed two hundred dollars in any month, the Recorder may receive and retain for his own use, in addition to his salary, one-half of all fees in excess of two hundred dollars in any month so collected. But the amount of fees thus received by the Recorder for his own use, plus his salary, shall not exceed the sum of two thousand dollars in any one year.

4. The Auditor, one thousand six hundred dollars per annum.

5. The Treasurer, one thousand six hundred dollars per annum.

6. The Tax Collector, one thousand dollars per annum.

7. The Assessor, two thousand six hundred dol-

lars per annum; provided, that the Assessor shall annually revise the plats in his office, and prepare the military roll at his own cost and expense.

All portions of this section referring to the revision of the Assessor's plats, and to preparing the military roll shall take effect from and after the passage of this act.

8. The District Attorney, one thousand eight hundred dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, one thousand four hundred dollars per annum, including services on the Board of Education. He shall be allowed his actual traveling expenses when visiting schools of his county, which expenses shall not exceed the sum of three hundred dollars in any one year.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Supervisors, each six hundred dollars per annum for all services performed by them as supervisors, and members of the board of equalization, and road commissioners, including mileage; provided, that each Supervisor shall receive ten cents for each mile, traveled by the ordinary route, in going from his residence to the county seat and returning once during each meeting. Each Supervisor shall be allowed his actual traveling expenses while supervising the roads of his district, not exceeding ten dollars in any one month. This act, so far as it relates to the compensation of Supervisors, and to their compensation as road commissioners in counties of the forty-first class, shall take effect immediately after its passage.

16. The official reporter of the Superior Court in counties of the forty-first class shall receive, as full compensation for taking notes when his services are demanded in civil cases, and in all criminal cases tried in said court, and when requested

by a Justice of the Peace, Coroner, or District Attorney in preliminary examinations, or inquests, a salary of one thousand two hundred dollars per annum, payable in equal monthly installments out of the county treasury at the same time and in the same manner as the salaries of county officers. He shall also be allowed his actual traveling expenses when reporting outside of the county seat. When the services of the reporter are demanded in any civil matter, there shall be taxed as costs in the case eight dollars per diem, for each day of the trial thereof, to be paid to the clerk of the court, in advance, one-half by each side; for transcription of said notes in criminal cases, and in civil cases, when required, said reporter shall receive not to exceed ten cents per folio of one hundred words for the original and five cents per folio for copy. Where the reporter is required to transcribe the whole or any part of the testimony during the taking of testimony in the Superior Court, he shall be entitled to receive and retain for his own use not to exceed fifteen cents per folio for the original and seven and one-half cents per folio for each copy, said compensation to be paid for, in civil cases, by the party ordering the same, and in criminal cases, together with said traveling expenses, to be audited and allowed by the Board of Supervisors as other claims against the county, and paid out of the county treasury. All per diem fees so collected by the clerk shall be paid into the county treasury on the first Monday of each month. This act, so far as it relates to the services and compensation of said official reporter, shall take effect immediately after its passage.

Sec. 199. In counties of the forty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The County Clerk, one thousand six hundred dollars per annum.

2. The Sheriff, twenty-five hundred dollars per annum. The Sheriff shall also receive for his own use and benefit all fees, commissions, and mileage, in all civil cases within his county, and all fees, commissions, and mileage for service of

any papers issued by any court outside of his county.

3. The Recorder, nine hundred dollars per annum.

4. The Auditor, five hundred dollars per annum.

5. The Treasurer, one thousand dollars per annum.

6. The Tax Collector, five hundred dollars per annum. The Tax Collector shall be allowed one deputy for the months of November and April of each year, at a compensation of one hundred dollars per month.

7. The Assessor, two thousand dollars per annum.

8. The District Attorney, one thousand five hundred dollars per annum.

9. The Coroner, such fees as are now or may hereafter be allowed by law.

10. The Public Administrator, such fees as now or may hereafter be allowed by law.

11. The Superintendent of Schools, one thousand five hundred dollars per annum, and he shall receive no extra compensation for his services on the Board of Education.

12. The Surveyor, such fees as are now or may hereafter be allowed by law.

13. Justices of the Peace, such fees as are now or may hereafter be allowed by law.

14. Constables, such fees as are now or may hereafter be allowed by law. In no case shall a Constable receive for service in vagrancy cases, for any one month, an amount in excess of the sum of forty dollars.

15. Supervisors, five dollars per day for each day while in the service of the county, and twenty cents per mile for traveling from residence to county seat.

Sec. 200. In counties of the forty-third class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to wit:

1. The County Clerk, six hundred dollars per annum, and such fees as are now or may be hereafter allowed by law.

2. The Sheriff, thirty-five hundred dollars per

annum, and one jailer, at a salary of nine hundred dollars per annum.

3. The Recorder, six hundred dollars per annum, and six cents per folio for every instrument of any character transcribed by him or any of his deputies, which said amounts shall be paid out of the county treasury.

4. The Auditor, seven hundred dollars per annum.

5. The Treasurer, one thousand dollars per annum.

6. The Tax Collector, eight hundred dollars per annum.

7. The Assessor, twenty-two hundred dollars per annum.

8. The District Attorney, eighteen hundred dollars per annum.

9. The Coroner, such fees as are now or may hereafter be provided by law.

10. The Public Administrator, such fees as are now or may hereafter be allowed by law.

11. The Superintendent of Schools, fifteen hundred dollars per annum for all services performed as school superintendent and member of the board of education.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. The Justices of the Peace, such fees as are now or may hereafter be allowed by law; provided, that the fees and compensation of any Justice of the Peace in criminal cases or proceedings to which the people of the State of California are or may be made a party, shall not exceed nine hundred dollars for any one year.

14. Constables, such fees as are now or may be hereafter allowed by law; provided, that the fees and compensation of any Constable in criminal cases or proceedings to which the people of the State of California are or may be made a party shall not exceed nine hundred dollars for any one year.

15. Each Supervisor shall receive for compensation, five dollars per day for all services performed as Supervisor and member of the board of equalization, not to exceed the sum of four hundred dollars per annum; also three dollars per day for each day actually engaged in performing

the duties of road commissioner, not to exceed three hundred dollars per annum.

Sec. 201. In counties of the forty-fourth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The County Clerk, fifteen hundred dollars per annum.

2. The Sheriff, thirty-five hundred dollars per annum, and actual traveling expenses incurred in the pursuit or arrest of criminals, either in or out of his county.

3. The Recorder, one thousand dollars per annum.

4. The Auditor, five hundred dollars per annum.

5. The Treasurer, one thousand dollars per annum.

6. The Tax Collector, five hundred dollars per annum, which shall be in full for all services as Tax Collector and as License Collector.

7. The Assessor, eighteen hundred dollars per annum.

8. District Attorney fifteen hundred dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, twelve hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The Surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the Peace, the fees which now are or hereafter may be allowed by law.

14. Constables, the fees which now are or hereafter may be allowed by law.

15. Each member of the Board of Supervisors, five dollars per day when the board is in session, and twenty cents per mile for traveling from his residence to the county seat; and, when serving as road commissioner, three dollars per day and mileage as allowed by law. But he shall not in any one year receive more than three hundred and fifty dollars as Supervisor, or more than two



hundred and fifty dollars as road commissioner, exclusive of mileage.

16. In counties of this class, the official reporter of the Superior Court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in Justices' Courts, a monthly salary of fifty dollars, payable out of the county treasury at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases, to be audited and allowed by the Board of Supervisors as other claims against the county, and paid out of the county treasury, and in civil cases to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 202. In counties of the forty-fifth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The County Clerk, fifteen hundred dollars per annum.

2. The Sheriff, thirty-five hundred dollars per annum.

3. The Recorder, twelve hundred dollars per annum.

4. The Auditor, twelve hundred dollars per annum.

5. The Treasurer, twelve hundred dollars per annum.

6. The Tax Collector, seven hundred dollars per annum; provided, there shall be no consolidation of this office with that of Treasurer or Sheriff until after the next general election.

7. The Assessor, eighteen hundred dollars per annum.

8. The District Attorney, fifteen hundred dollars per annum.

9. The Coroner, such fees as are now or may be hereafter allowed by law.

10. The Public Administrator, such fees as are now or may be hereafter allowed by law.

11. The Superintendent of Schools, five hundred dollars per annum.



12. The Surveyor, ten dollars per day when engaged in county work. He shall also receive his actual expenses when at work in the field.

13. Justices of the Peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the Board of Supervisors, six dollars per day, and twenty-five cents per mile in traveling to and from their respective residences to the county seat, all of which compensation, in the aggregate, shall not exceed four hundred dollars each per annum.

16. In counties of this class the official reporter of the Superior Court shall receive, as full compensation for taking notes, in civil and criminal cases tried in said court, and for preliminary examinations in Justices' Courts, a monthly salary of fifty dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original, and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the Board of Supervisors as other claims against the county and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct; provided, that in any one year, the reporter shall not receive more than eighteen hundred dollars for services as such reporter.

Sec. 203. In counties of the forty-sixth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to wit:

1. The County Clerk, thirteen hundred dollars per annum.

2. The Sheriff, twenty-four hundred dollars per annum, and the fees or commissions for the service of all papers issued by any court of the State outside of his county, and his actual and necessary traveling expenses while executing a warrant outside of his county, issued by a magistrate or court within his county.

3. The recorder, thirteen hundred dollars per annum.

4. The auditor, seven hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, five hundred dollars per annum.

7. The assessor, fifteen hundred dollars per annum.

8. The district attorney, one thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, eight hundred dollars per annum, and actual and necessary traveling expenses when visiting schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, four dollars a day when the board is in session, and ten cents a mile in going only, for traveling from his residence to the county seat; and when serving as road commissioner, three dollars a day and actual necessary expenses; provided, he shall not in any one year receive more than three hundred dollars as supervisor, exclusive of mileage, nor more than two hundred dollars as road commissioner, exclusive of traveling expenses.

17. This act shall not affect any officer during his present term of office so far as it relates to the compensation or salary of such officers of counties of the forty-sixth class.

Sec. 204. In counties of the forty-seventh class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to-wit:

1. The county clerk, eighteen hundred dollars per annum.

2. The sheriff, three thousand dollars per annum, and the fees or commissions for the service of all papers issued by any court of the state outside of his county; also his actual and necessary traveling expenses in the execution of a warrant outside of his county issued by a court or magistrate of his county.

3. The recorder, one thousand dollars per annum.

4. The auditor, eight hundred dollars per annum.

5. The treasurer, twelve hundred dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, two thousand dollars per annum.

8. The district attorney, sixteen hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, sixteen hundred dollars per annum, and actual traveling expenses while visiting schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law; provided, that the fees for service rendered in criminal cases and which are chargeable against the county, shall not exceed in the aggregate in any one month sixty dollars; provided, this provision shall not affect their right to collect fees as coroner when acting as such.

14. Constables, such fees as are now or may hereafter be allowed by law; provided, that the fees for services rendered in criminal cases and which are chargeable against the county shall not exceed in the aggregate in any one month the sum of sixty dollars; provided also, that he shall be paid by the county his actual and necessary expenses incurred in conveying prisoners to the county jail; providing further, that he be allowed his actual and necessary expenses incurred in executing any warrant outside

of his county issued by a magistrate or justice of his county, not to exceed in the aggregate a sum equal to ten cents per mile necessarily traveled outside of his county in the execution of such warrant. The items of expense herein provided which may be allowed constables shall not be charged to him in making up the maximum fees which he may collect in criminal proceedings.

15. Each supervisor, five dollars per day while attending session of the board and while engaged in the performance of the duties of road commissioner, and mileage at the rate of twenty cents per mile for traveling from residence to county seat in attendance upon a regular session of the board.

16. Official reporters, same as now provided by law.

This act, so far as it relates to counties of the forty-seventh class, shall take effect immediately as to the offices of justices of the peace and constables, but shall not affect the compensation of other officers during the present term of office.

Sec. 205. In counties of the forty-eighth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to-wit:

1. The county clerk, one thousand three hundred dollars per annum.

2. The sheriff, two thousand five hundred dollars per annum, and twenty-five cents mileage, in going only.

3. The recorder four hundred dollars per annum.

4. The auditor, three hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, three hundred and fifty dollars per annum.

7. The assessor, one thousand six hundred dollars per annum.

8. The district attorney, one thousand dollars per annum, and his necessary traveling expenses, to be allowed by the board of supervisors.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, six hundred and twenty-five dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each supervisor, five dollars per day when the board is in session, and twenty cents per mile for traveling to and from his residence to the county seat, at each session. But he shall not in any one year receive more than five hundred dollars as supervisor.

16. The reporters, whether official or appointed for any particular case or proceeding, shall receive for his own use such fees as may be allowed by the superior court, when reporting therein or transcribing therefor, and such fees as may be allowed by the supervisors for reporting in long-hand or shorthand at preliminary examinations or inquests. Such fees to be collected from the parties in the proportion ordered by the court in civil cases, and to be paid by the county in criminal cases and proceedings.

17. The license collector, such compensation as the board of supervisors shall fix.

This act shall take effect immediately as to justices of the peace, constables, and reporters.

Sec. 206. In counties of the forty-ninth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to-wit:

1. The county clerk, one thousand five hundred dollars per annum.

2. The sheriff, three thousand dollars per annum.

3. The recorder, one thousand two hundred dollars per annum.

4. The auditor, three hundred dollars per annum.

5. The treasurer, one thousand two hundred dollars per annum.

6. The tax collector, three hundred dollars per annum.

7. The assessor, one thousand five hundred dollars per annum.

8. The district attorney, one thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each supervisor, eight dollars per day when the board is in session, but he shall not in any one year receive more than three hundred dollars as supervisor.

16. The reporters, whether official or appointed for any particular case or proceeding, shall receive for his own use such fees as may be allowed by the superior court, when reporting therein or transcribing therefor, and such fees as may be allowed by the board of supervisors for reporting in longhand or shorthand at preliminary examinations or inquests. Such fees to be collected from the parties in the proportion ordered by the court in civil cases, and to be paid by the county in criminal cases and proceedings.

17. The license collector, such compensation as the board of supervisors shall fix.

This act shall take effect immediately as to justices of the peace, constables, and reporters.

Sec. 207. In counties of the fiftieth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to-wit:

1. The county clerk, twelve hundred dollars per annum.

2. The sheriff, thirty-eight hundred dollars per annum.

3. The recorder, twelve hundred dollars per annum.

4. The auditor, six hundred dollars per annum.



5. The treasurer, twelve hundred dollars per annum.

6. The tax collector, seven hundred dollars per annum.

7. The assessor, sixteen hundred and fifty dollars per annum.

8. The district attorney, twelve hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, six hundred dollars per annum, and actual traveling expenses while visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, five dollars per day when the board is in session, and ten cents per mile for traveling to and from his residence to the county seat.

Sec. 208. In counties of the fifty-first class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to-wit:

1. The county clerk, one thousand five hundred dollars per annum.

2. The sheriff, two thousand five hundred dollars per annum.

3. The recorder, eight hundred dollars per annum.

4. The auditor, four hundred dollars per annum.

5. The treasurer, eight hundred dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, one thousand five hundred dollars per annum.

8. The district attorney, one thousand two hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.



10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, seven hundred dollars per annum and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each supervisor, two hundred and fifty dollars per annum, and twenty-five cents per mile for traveling, one way only, to the county seat at each sitting of the board.

Sec. 209. In counties of the fifty-second class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to-wit:

1. The county clerk, one thousand five hundred dollars per annum.

2. The sheriff, three thousand dollars per annum.

3. The recorder, eight hundred dollars per annum.

4. The auditor, two hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, five hundred dollars per annum.

7. The assessor, one thousand five hundred dollars per annum.

8. The district attorney, one thousand two hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, six hundred dollars per annum, and actual traveling expenses when visiting the schools of his county.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each supervisor, six dollars per day when the board is in session, not to exceed three hundred dollars per year, and twenty-five cents per mile for traveling from his residence to the county seat, in going only.

16. The reporter, whether official or appointed for any particular case or proceeding, shall receive for his own use such fees as may be allowed by the superior court, when reporting therein or transcribing therefor, and such fees as may be allowed by the supervisors for reporting in long-hand or shorthand at preliminary examinations or inquests; such fees to be collected from the parties in the proportion ordered by the court in civil cases, and to be paid by the county in criminal cases or proceedings.

17. The license collector, such compensation as the board of supervisors shall fix.

This act shall take effect immediately as to justices of the peace, constables, and reporters.

Sec. 210. In counties of the fifty-third class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to-wit:

1. The county clerk, fifteen hundred dollars per annum.

2. The sheriff, three thousand dollars per annum.

3. The recorder, eight hundred dollars per annum.

4. The auditor, six hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, fifteen hundred dollars per annum.

8. The district attorney, one thousand dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, seven hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, two hundred and fifty dollars per annum; mileage from residence to county seat at each sitting of the board, twenty cents per mile.

Sec. 211. In counties of the fifty-fourth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to-wit:

1. The county clerk, sixteen hundred dollars per annum.

2. The sheriff, four thousand dollars per annum.

3. The recorder, eight hundred dollars per annum.

4. The auditor, two hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, one thousand dollars per annum.

7. The assessor, twelve hundred dollars per annum.

8. The district attorney, nine hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, four hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, six dollars per day when board is in session; thirty cents per mile one way. Three dollars per day when actually serving as road commissioner, not to exceed three hundred dollars.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a salary of ten dollars per diem during employment, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers, and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 212. In counties of the fifty-fifth class, the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to-wit:

1. The county clerk, nine hundred dollars per annum.

2. The sheriff, twelve hundred dollars per annum.

3. The recorder, six hundred dollars per annum.

4. The auditor, three hundred dollars per annum.

5. The treasurer, nine hundred dollars per annum.

6. The tax collector, nine hundred dollars per annum.

7. The assessor, six hundred dollars per annum.

8. The district attorney, nine hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, four hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, three hundred dollars per annum and twenty cents per mile in traveling from his residence to the county seat, going only; provided, that only one mileage shall be allowed for any regular session of the board.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts and at coroners' inquests, a monthly salary not to exceed fifty dollars, payable out of the county treasury, at the same time and in the same manner as the salaries of county officers; and for transcription of said notes, when required, he shall receive the sum of ten cents per folio for the original and five cents per folio for a copy; said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or, when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 213. In counties of the fifty-sixth class the county officers shall receive, as compensation for the services required of them by law or by virtue of their offices, the following salaries, to-wit:

1. The county clerk, twelve hundred dollars per annum.

2. The sheriff, twenty-six hundred dollars per annum.

3. The recorder, six hundred dollars per annum.

4. The auditor, two hundred dollars per annum.

5. The treasurer, one thousand dollars per annum.

6. The tax collector, five hundred dollars per annum.

7. The assessor, twelve hundred dollars per annum.

8. The district attorney, nine hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, four hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each member of the board of supervisors, six dollars per day during session, and thirty cents per mile one way to board meeting; three dollars per day (no mileage) as road commissioner when actually engaged in road business.

16. In counties of this class the official reporter of the superior court shall receive, as full compensation for taking notes in civil and criminal cases tried in said court, and for preliminary examinations in justices' courts, a per diem of eight dollars, and for transcription of said notes, when required during the progress of the trial, he shall receive the sum of twenty cents per folio for the original and five cents per folio for one copy; but if such transcription is not required until after conclusion of trial, then he shall receive the sum of ten cents per folio for original, and three cents per folio for copies required, said compensation for transcription in criminal cases to be audited and allowed by the board of supervisors as other claims against the county, and paid out of the county treasury, and in civil cases, to be paid by the party ordering the same, or when ordered by the judge, by either party, or jointly by both parties, as the court may direct.

Sec. 214. In counties of the fifty-seventh class the county officers shall receive, as compensation for the services required of them by law or by virtue of their office, the following salaries, to-wit:

1. The county clerk, five hundred dollars per annum.

2. The sheriff, five hundred dollars per annum.

3. The recorder, three hundred dollars per annum.



4. The auditor, two hundred dollars per annum.

5. The treasurer, three hundred dollars per annum.

6. The tax collector, three hundred dollars per annum.

7. The assessor, three hundred dollars per annum.

8. The district attorney, three hundred dollars per annum.

9. The coroner, such fees as are now or may be hereafter allowed by law.

10. The public administrator, such fees as are now or may be hereafter allowed by law.

11. The superintendent of schools, one hundred dollars per annum.

12. The surveyor, such fees as are now or may be hereafter allowed by law.

13. Justices of the peace, such fees as are now or may be hereafter allowed by law.

14. Constables, such fees as are now or may be hereafter allowed by law.

15. Each supervisor, five dollars per day when the board is in session, and twenty cents per mile for traveling from his residence to the county seat, going only, and only one mileage shall be allowed for any regular session of the board; and, when serving as road commissioner, three dollars per day. Such per diem not to exceed the total sum of fifty dollars per annum.

Provided, however, that five per cent only shall be allowed the sheriff or tax collector as fees for collecting licenses in counties of this class.

Sec. 215. The salaries and fees provided in this act shall be in full compensation for all services of every kind and description rendered by the officers herein named, either as officers or ex officio officers, their deputies and assistants, unless in this act otherwise provided, and all deputies employed shall be paid by their principals out of the salaries hereinbefore provided, unless in this act otherwise provided; provided, and except that where an assistant district attorney has been heretofore appointed in any county, either under the provisions of subdivision thirty-six of section twenty-five, or under any other provisions of an act entitled "An act to establish a uniform system



of county and township government," approved March twenty-fourth, eighteen hundred and ninety-three, and such assistant is continued by the provisions of this act, either as an assistant or deputy in such county, then such deputy or assistant shall be paid out of the funds of such county, as heretofore or herein provided, the assessor shall be entitled to receive and retain for his own use six per cent on personal property tax collected by him as authorized by section thirty-eight hundred and twenty of the Political Code, and fifteen per cent of all amounts collected by him for poll taxes, and road poll taxes, and also five dollars per hundred names of persons returned by him as subject to military duty, as provided in section nineteen hundred and one of the Political Code, and the license collector shall be entitled to receive and retain for his own use ten per cent on all licenses collected by him, except where otherwise provided in this act; provided, however, that in counties, and cities and counties of the first, second, and third class the assessor shall receive no commission for the collection of taxes on personal property, nor shall such assessor receive any compensation for making out military roll of persons returned by him as subject to military duty as provided by section nineteen hundred and one of the Political Code; nor shall the license collector in cities and counties of the first class and counties of the second class receive any commission on licenses collected by him; provided, that in any county where the number of judges of the superior court shall have been increased since the first day of January, eighteen hundred and ninety-seven, or shall hereafter be increased, there must be and there hereby is allowed to the sheriff of such county, by reason of such increase, one additional deputy, to be appointed by the sheriff, at a salary of not exceeding twelve hundred dollars per annum, to be paid at the same time and in the same manner as other county officers are paid; and also there must be and is hereby allowed to the county clerk of such county, one additional deputy, to act as court-room clerk, for each judge so appointed or elected, at a salary not exceeding twelve hundred dollars per annum for each of said deputies, to be paid at the same time and in

the same manner as other county officers are paid. The board of supervisors shall allow to the sheriff his necessary expenses for pursuing criminals, or transacting any criminal business without the boundaries of his county, and for boarding prisoners in the county jail; provided, that the board of supervisors shall fix a reasonable price at which such prisoners shall be boarded, if not otherwise provided for in this act; provided further, that the sheriff shall be entitled to receive and retain for his own use, five dollars per diem for conveying prisoners to and from the state prisons, and for conveying persons to and from the insane asylums, or other state institutions not otherwise provided for by law; also, all expenses necessarily incurred in conveying insane persons to and from the insane asylums, and in conveying persons to and from the state prisons, or other state institutions, which per diem and expenses shall be allowed by the board of examiners, and collected from the state. The court shall also allow the sheriff his necessary expenses in keeping and preserving property seized on attachment or executions, to be paid out of the fees collected in the action. The sheriff may retain for his own use the mileage for service of papers or process issued by any court of the state outside of his own county.

## FEES TO BE PAID INTO THE COUNTY TREASURY.

Sec. 216. All salaried officers of the several counties of this state shall charge and collect for the use of their respective counties, and pay into the county treasury, on the first Monday in each month, the fees now or hereafter allowed by law in all cases, except where such fees, or a percentage thereof, is allowed such officers, and excepting also such fees as are a charge against the county.

## FEE BOOK.

Sec. 217. Each of the officers authorized to receive fees under the provisions of this act must keep a fee book, open to the public inspection during office hours, in which must be entered, at

once and in detail, all fees or compensation, of whatever nature, kind, or description, collected or chargeable. On the first Monday of each and every month, the officer must add up each column in his book to the first day of the month, and set down the totals. On the expiration of the term of such officer, he must deliver all fee books kept by him to the county auditor.

### STATEMENT OF FEES.

Sec. 218. The fees and compensation collected and chargeable for the county in each month shall be paid to the county treasurer on the first Monday in the following month, and must be accompanied by a statement of the aggregate amount thereof, as shown by the fee book, duly verified by the officer making such payment. The affidavit shall be in the following form: "I, A. B., county clerk (or other officer, as the case may be), do swear that the fee book in my office contains a true statement in detail of all fees and compensation of every kind and nature for official services rendered by me, my deputies, and assistants, for the month of ———, A. D. ———, and that said fee book shows a full amount received or chargeable in said month, and since my last monthly payment; and neither myself, nor to my knowledge or belief, any of my deputies or assistants have rendered any official service, except for the county, which is not fully set out in said fee book, and that the foregoing statement thereof is true and correct."

The treasurer shall file and preserve in his office said statements and affidavit.

### SALARY FUND.

Sec. 219. For the purpose of paying the salaries provided for in this act, all fees directed to be paid into the county treasury shall be set apart therein as a separate fund, to be known as the salary fund, to be applied to the payment of said salaries. Should the amount received from such source be insufficient, it shall be the duty of the county treasurer from time to time to transfer to said fund from the general fund of the county

such sums as may be necessary to pay said salaries as they become due.

### SALARIES—HOW PAID.

Sec. 220. The salaries of such officers named in this act as are entitled to salaries shall be paid monthly out of the county treasury; and it shall be the duty of the auditor, on the first Monday of each and every month, to draw his warrant upon the county treasurer in favor of each of said officers for the amount of salary due him under the provisions of this act for the preceding month; except that one-half of the annual salary of the assessor shall be paid to him in equal monthly installments for the months of March, April, May, and June, and one-half in equal monthly installments for the remaining eight months of the year. The treasurer shall pay said warrants on presentation out of the salary fund of the county treasury.

### STATEMENT OF FEES MUST PRECEDE WARRANT FOR SALARY.

Sec. 221. The auditor shall not draw his warrant for the salary of any such officer for any month until the latter shall first have presented him with the certificate of the county treasurer, showing that he has made the statement and settlement for that month required in this act.

### OFFICIAL SERVICES AND FEES.

Sec. 222. The officers mentioned in this act are not in any case, except for the state or county, to perform any official services, unless upon the prepayment of fees prescribed for such services, except in cases on habeas corpus and for naturalization, and on such payment the officer must perform the services required. For every failure, or refusal to perform official duty when the fees are tendered, the officer is liable on his official bond.

### ACCOUNT AND RECEIPT FOR FEES.

Sec. 223. Every officer, upon receiving any fees for official duty or service, may be required by

the person paying the same to make out, in writing, and deliver to such person a particular account of such fees, specifying for what they, respectively, accrued, and shall receipt the same; and if he refuse or neglect to do so when required, he shall be liable to the party paying the same in treble the amount so paid.

### POSTER OF FEES OF JUSTICES.

Sec. 224. It shall be the duty of each justice of the peace to prepare, and keep posted in a conspicuous place in his office, a plain and legible statement of the fees allowed by law to justices of the peace and constables, upon pain of forfeiting, for failure so to do, fifty dollars, to be recovered, with costs, by any person, before any other justice of the peace of the county.

### ILLEGAL FEES.

Sec. 225. The board of supervisors, upon receiving a certified copy of the record of conviction of any officer for receiving illegal fees, must declare his office vacant.

### SERVICES PERFORMED BY SUCCESSOR.

Sec. 226. It shall be the duty of all officers in this act named to complete the business of their respective offices to the time of the expiration of their respective terms; and in case any officer at the close of his term shall leave to his successor official labor to be performed, which it was his duty to perform, he shall be liable to pay to his successor the full value for such services.

### NO FEES ON HABEAS CORPUS.

Sec. 227. No fee or compensation of any kind must be charged or received by any officer for duties performed or services rendered in proceedings upon habeas corpus or naturalization, nor for administering or certifying the oath of office, nor fees or other compensation shall be paid for service rendered in an affidavit or application relating to the securing of a pension or the payment of a

pension voucher, or any matter relating thereto, nor filing nor swearing to any claim or demand against any county in this state.

Sec. 228. The following are county charges:

1. Charges incurred against the county by virtue of any of the provisions of this act.

2. The traveling and other personal expenses of the district attorney, incurred in criminal cases arising in the county, and in civil actions and proceedings in which the county is interested, and all other expenses necessarily incurred by him in the detection of crime and prosecution of criminal cases, and in civil actions and proceedings and all other matters in which the county is interested.

3. The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail.

4. The sums required by law to be paid to the grand and trial jurors and witnesses in criminal cases.

5. The accounts of the coroner of the county for such services as are not provided to be paid otherwise.

6. All charges and accounts for services rendered by any justice of the peace in the examination or trial of persons charged with crime, not otherwise provided for and allowed by law.

7. The necessary expenses incurred in the support of the county hospitals, poorhouses, and the indigent sick and otherwise dependent poor, whose support is chargeable to the county.

8. The contingent expenses necessarily incurred for the use and benefit of the county.

9. Every other sum directed by law to be raised for any county purpose under the direction of the board of supervisors, or declared to be a county charge.

10. The fees of constables in criminal cases allowed by law.

## COST OF CRIMINAL ACTIONS ON REMOVAL.

Sec. 229. When a criminal action is removed before trial, the costs accruing upon such removal and trial shall be a charge against the county in which the indictment or information was found.



## COSTS ON REMOVAL—HOW CERTIFIED AND PAID.

Sec. 230. The clerk of the county to which such action is removed shall certify the amount of costs allowed and certified by the court to the auditor of his county, and such auditor shall audit the same and draw his warrant therefor upon the treasury of the county from which such action was removed; and such auditor shall forward to said treasurer and auditor of the county from which said action was transferred, as aforesaid, a certified copy of the total amount of costs allowed by the court, giving each item as certified to him by the county clerk and the court; and the auditor receiving such certified copy of said costs allowed shall enter the same in his book as a charge against the treasury of his county; and the county treasurer of the county from which said action was removed must, immediately upon presentation, pay said warrant out of the general fund of said county; or, if at the date of presentation there is not sufficient money in the said general fund to pay the same, he must indorse upon said warrant, "Not paid for want of funds," and said warrant must be registered, and shall draw interest at the same rate, and be paid in the same manner, as though it had been drawn by the auditor of the county where the indictment was found.

Sec. 231. Counties created or organized after the passage and approval of this act shall immediately come under and be governed by its provisions, so far as the same are applicable thereto. When the population of any existing county shall have been reduced, by reason of the creation of any new county from the territory thereof, below the class and rank first assumed hereunder, it shall be the duty of the board of supervisors of such county to designate by order the class to which such county has been reduced by reason thereof, and such county shall thereafter enter the list of such class; provided, that the salary of county officers shall not be affected by reason of such division of the county or order of the board, for the term for which they were elected and qual-



ified. In any newly created county, for the purpose of fixing the salaries and fees of county and township offices, the board of commissioners appointed to organize said new county, and if no commissioners be appointed, then the board of supervisors of said new county, shall classify said new county according to the population classification of this act. In each case the population shall be numerically fixed, and when so fixed shall be certified to the secretary of state by the board fixing the same.

Sec. 232. All acts and parts of acts inconsistent with this act are hereby repealed.

Sec. 233. The provisions of sections one hundred and fifty-eight to two hundred and fourteen, inclusive, of this act, so far as they change the compensation of any officer therein named, heretofore paid a fixed salary, or heretofore paid a fixed salary and commissions, and not fees or per diem, shall not affect incumbents, unless otherwise provided in any of said sections.

Sec. 234. This act, except as otherwise herein provided, shall take effect and be in force sixty days from and after its passage.

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## TITLE 62.

### COURTS.

Acts relating to: See Code of Civil Procedure, Appendix, titles, Courts, p. 790 et seq.; Process, p. 864.

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## TITLE 63.

### COYOTE SCALPS.

An act fixing a bounty on coyote scalps.

[Approved March 31, 1891; Stats. 1891, p. 280.] *Ry*

This act was repealed by the following act:

Gen. Laws—22.

An act to repeal an act entitled "An act fixing a bounty on coyote scalps," approved March 31, 1891.

[Approved January 24, 1895; Stats. 1895, chap. i.  
In effect immediately.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. An act entitled "An act fixing a bounty on coyote scalps," approved March thirty-first, eighteen hundred and ninety-one, is hereby expressly repealed.

Sec. 2. This act shall take effect immediately.

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## TITLE 64.

### CRUELTY TO ANIMALS.

The Political Code, sec. 19, also the Penal Code, sec. 23, expressly retained in force "An act for the more effectual prevention of cruelty to animals, approved March 30, 1868"; amended March 15, 1872; 1871-2, 393; but it was afterwards repealed by the following act:

An act for the more effectual prevention of cruelty to animals.

[Approved March 20, 1874; 1873-4, 499.]

This act can be found in the Appendix to the Penal Code, p. 506.

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## TITLE 65.

### CRUELTY TO CHILDREN.

An act for the incorporation of societies for the prevention of cruelty to children.

[Approved April 3, 1876; 1875-6, 830.]

This act can be found in the Appendix to the Penal Code, p. 570.

## TITLE 66.

## DEAF, DUMB, AND BLIND.

A reference to the acts relating to this subject can be found in Deering's Annotated Political Code under section 2282. In addition to those there referred to, consult the following:

An act to provide for certain improvements at the deaf, dumb, and blind asylum.

[Approved March 4, 1887; 1887, 16.]

The act appropriated thirty-four thousand five hundred dollars for the purpose indicated.

An act to provide improvements for the deaf, dumb, and blind asylum, and making an appropriation for the same.

[Approved March 16, 1889; 1889, 303.]

The act appropriated seventy-nine thousand five hundred dollars for the purpose indicated.

An act to provide for the completion and equipment of the deaf and dumb and blind asylum, and to make an appropriation therefor.

[Approved March 23, 1893; Stats. 1893, p. 292.]

The act appropriated \$63,500 for the purpose indicated.

An act to appropriate money to pay the directors of the California Institute for the Deaf, Dumb, and Blind, for the grading and paving of Dwight Way, in front of the lands of the Institute for the Deaf, Dumb, and Blind, of Berkeley, California, which work was performed and materials furnished under a contract with Guy H. Chick, superintendent of streets of the town of Berkeley, California, his authority having been acquired under the general street law of this state.

[Stat. approved March 31, 1897; Stats. 1897, chap. ccxxxvii.]

Four hundred and eighty-seven dollars was appropriated for this purpose.

An act to confer certain powers upon the directors of the deaf, dumb, and blind asylum.

[Approved April 1, 1876; 1875-6, 686.]

The act conferred power to invest money bequeathed to the asylum in accordance with the wishes of the donor.

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## TITLE 67.

### DEEDS.

Acts relating to: See Civil Code, Appendix, title, Deeds, p. 765.

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## TITLE 68.

### DEL NORTE COUNTY.

A reference to special acts relating to Del Norte county is contained in Deering's Annotated Penal Code, p. 462.

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## TITLE 69.

### DENTISTRY.

An act to insure the better education of practitioners of dental surgery, and to regulate the practice of dentistry in the state of California.

[Approved March 12, 1885; 1885, 110.]

Practice of dentistry.

Section 1. It shall be unlawful for any person who is not at the time of the passage of this act engaged in the practice of dentistry in this state to commence such practice, unless he or she shall have obtained a certificate as hereinafter provided.

Board of examiners.

Sec. 2. A board of examiners, to consist of seven practicing dentists, is hereby created, whose duty it shall be to carry out the purposes and en-

force the provisions of this act. The members of said board shall be appointed by the governor from the dental profession of the state at large. The term for which the members of said board shall hold their offices shall be four years, except that two of the members of the board, first to be appointed under this act, shall hold their office for the term of one year, two for the term of two years, two for the term of three years, and one for the term of four years, respectively, and until their successors shall be duly appointed and qualified. In case of a vacancy occurring in said board, such vacancy shall be filled by the governor in conformity with this section.

Officers, quorum.

Sec. 3. Said board shall choose one of its members president, and one the secretary thereof, and it shall meet at least once in each year, and as much oftener and at such times and places as it may deem necessary. A majority of said board shall at all times constitute a quorum, and the proceedings thereof shall at all reasonable times be open to public inspection.

Registration by dentists.

Sec. 4. Within six months from the time that this act takes effect, it shall be the duty of every person who is now engaged in the practice of dentistry in this state to cause his or her name and residence or place of business to be registered with said board of examiners, who shall keep a book for that purpose. The statement of every such person shall be verified under oath before a notary public or justice of the peace, in such manner as may be prescribed by the board of examiners. Every person who shall so register with said board as a practitioner of dentistry shall receive a certificate to that effect, and may continue to practice as such without incurring any of the liabilities or penalties provided in this act, and shall pay to the board of examiners for such registration a fee of one dollar. It shall be the duty of the board of examiners to forward to the county clerk of each county in the state a certified list of the names of all persons residing in his county who have registered in accordance with the provisions of this act, and it shall be the duty of all county clerks to register such names in a book, to be kept for that purpose.

Certificates to practice dentistry.

Sec. 5. Any and all persons who shall so desire may appear before said board at any of its regular meetings and be examined with reference to their knowledge and skill in dental surgery, and if the examination of any such person or persons shall prove satisfactory to said board, the board of examiners shall issue to such persons as they shall find to possess the requisite qualifications a certificate to that effect, in accordance with the provisions of this act. Said board shall also indorse as satisfactory diplomas from any reputable dental college, when satisfied of the character of such institution, upon the holder furnishing evidence satisfactory to the board of his or her right to the same, and shall issue certificates to that effect within ten days thereafter. All certificates issued by said board shall be signed by its officers, and such certificates shall be prima facie evidence of the right of the holder to practice dentistry in the state of California.

Violation.

Sec. 6. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars nor more than two hundred dollars, or confined in the county jail six months for each and every offense. All fines recovered and collected under this act shall be distributed, one-half to the informer, and the other half be paid into the common school fund of the county in which the conviction takes place. [Amendment approved March 3, 1893; Stats. 1893, p. 70. In effect immediately.]

Examination fee.

Sec. 7. In order to provide the means for carrying out and maintaining the provisions of this act, the said board of examiners shall charge each person applying to or appearing before them for examination for a certificate of qualifications a fee of ten dollars, which fee shall in no case be returned, and out of the funds coming into the possession of the board from the fees so charged, and penalties received under the provisions of this act, all legitimate and necessary expenses incurred in attending the meetings of said board shall be paid. And no part of the expenses of the

board shall ever be paid out of the state treasury. All moneys received in excess of expense above provided for shall be held by the secretary of said board as a special fund for meeting the expenses of said board, and carrying out the provisions of this act, he giving such bonds as the board shall from time to time direct. And said board shall make an annual report of its proceedings to the governor by the first of December of each year, together with an account of all moneys received and disbursed by them pursuant to this act.

Registering certificate.

Sec. 8. Any person who shall receive a certificate from said board to practice dentistry shall cause his or her certificate to be registered with the county clerk of the county in which such person may reside, and the county clerk shall charge for registering such certificate a fee of one dollar. Any failure, neglect, or refusal on the part of any person holding such certificate to register the same with the county clerk as above directed, for a period of six months, shall work a forfeiture of the certificate, and no certificate when once forfeited shall be restored, except upon the payment to the said board of examiners of the sum of twenty-five dollars, as a penalty for such neglect, failure, or refusal.

Falsely pretending to hold license.

Sec. 9. Any person who shall knowingly and falsely claim or pretend to have or hold a certificate of license, diploma, or degree, granted by any society organized under and pursuant to the provisions of this act, or who shall falsely, or with intent to deceive the public, claim or pretend to be a graduate from any incorporated dental college, shall be deemed guilty of a misdemeanor, and shall be liable to the same penalty as provided in section six.

Physicians may extract teeth.

Sec. 10. Nothing in this act shall be so construed as to prohibit any practicing physician from extracting teeth.

Sec. 11. This act shall take effect immediately.



## TITLE 70.

## DISTRICT ATTORNEYS.

Acts relating to: See Political Code, Appendix, title, District Attorneys, p. 960.

## TITLE 71.

## DITCHES.

An act for the protection of the owners of ditches and flumes.

[Approved March 16, 1889; 1889, 202.]

Joint liability of owners of ditch or flume.

Section 1. When two or more persons are associated by agreement in the use of a ditch or flume, or are using for the irrigation of land a ditch or flume, to the construction of which they or their grantors have contributed, each of them shall be liable to the other for the reasonable expense of maintaining and repairing the same in proportion to the share in the use of the water to which he is entitled.

Action for refusal to pay proportional expense.

Sec. 2. If any of them refuse or neglect, after demand in writing, to pay his proportion of such expenses, he shall be liable therefor in an action for contribution in the nature of an action on the case, and in any judgment obtained against him, interest from the time of such demand, at the rate of two per cent per month may be included.

Willful appropriation a misdemeanor.

Sec. 3. If any of them willfully appropriate to his own use more than his proportionate share of the water from such ditch or flume, to the detriment of his associates, or any of them, he shall be liable in damages in treble the value of the water so appropriated in excess of his proper share.

Actions, how brought.

Sec. 4. The actions provided for in sections two and three may be brought by any or either of the parties injured, and may be joint or several.

Sec. 5. This act shall take effect from and after its passage.

## TITLE 72.

### DOGS.

Dogs killing sheep, liability for: See post, Sheep.

An act to protect sheep and Cashmere and Angora goats against the ravages of dogs.

[Approved March 13, 1866; 1865-6, 225.]

Dog tax.

Section 1. Every owner, claimant, or keeper of a dog or dogs of the age of four months or over, shall hereafter pay an annual tax on all dogs owned, claimed, or kept by him or her; for the first male dog, one dollar; for every additional male dog, two dollars; and for every female dog, three dollars.

Collection.

Sec. 2. It shall be the duty of the county, district, or township assessors, as the case may be, at the time of making their annual assessment of real estate and personal property, to ascertain by diligent inquiry and examination the names of all persons owning, claiming, or keeping any dog or dogs, and they shall assess all such dogs in the amounts respectively, as provided in the first section of this act, to the person or persons owning, claiming, or keeping the same, and shall make lists and delivery thereof on their annual tax lists or assessment rolls at the same time and in the same manner as their lists and delivery of other personal property are made and delivered; and the proper officers are hereby empowered and required to collect such tax on dogs in the same mode and manner as other taxes are collected, and to pay over the same into the county school fund.

### Ownership.

Sec. 3. Every dog kept or staying at any house shall be deemed sufficient evidence of ownership to authorize the assessor to return the person inhabiting the house as the owner of such dog; and any person sending his or her dog from house to house or from place to place in order to evade said tax shall pay double rates therefor; and every dog not so returned shall be deemed to have no owner, and may be lawfully killed by any person seeing the same running at large.

### Damages.

Sec. 4. The owner or owners of any dog or dogs which shall worry, wound, or kill any sheep, Cashmere or Angora goats, shall be liable to the owner or possessor of such sheep, goat or goats, for the damages and costs of suit, to be recovered before any court having jurisdiction in the case.

### Killing.

Sec. 5. Any person finding any dog or dogs, not on the premises of its owner, worrying, wounding, or killing any sheep, or Cashmere or Angora goats, may kill the same, and the owner thereof shall sustain no action for damages against any person so killing any dog or dogs under such circumstances.

The following special and local acts were passed in 1878: An act to repeal an act entitled an act restricting the herding of sheep to certain pastures in the counties of Sonoma and Marin, passed April 21, 1857, and the acts amendatory thereof, so far as they relate to the counties of Mendocino and Humboldt, approved February 14, 1878; 1877-8, 79.

An act restricting the herding of sheep to certain pastures in the county of Modoc, approved March 14, 1878; 1877-8, 241.

An act to prevent sheep and goats from being herded or running at large in certain portions of Lake county, approved March 29, 1878; 1877-8, 685.

## TITLE 73.

## DONATIONS TO STATE, COUNTY, CITY, OR TOWN.

Consult the following acts:

*La 4387*

An act to provide for the receipt and appropriation of donations to the state, or counties, or cities and counties, or cities or towns therein.

[Approved April 3, 1880; 1880, 20 (Ban. ed. 106).]

An act to authorize the several counties, cities and counties, cities, and towns of this state, and the officers and boards of officers thereof, to receive property by gift, bequest, and devise, and to hold, manage, and dispose of such property, and the income and increase thereof.

[Approved February 10, 1881; Stats. 1881, 2.]

*Part to cities  
" " counties*

## TITLE 74.

*State*

## DRAINAGE.

An act to provide a system of irrigation, promote rapid drainage, and improve the navigation of the Sacramento and San Joaquin rivers.

[Approved March 29, 1878; 1877-8, 634.]

This act created the office of state engineer for the period of two years and prescribed the duties of the engineer. It was amended by renewing the office each session of the legislature up to 1889.

An act to promote drainage.

[Approved April 23, 1880; 1880, 123 (Ban. ed. 389).]

Board of drainage commissioners.

Section 1. The governor, surveyor general, and state engineer shall be ex officio members of and constitute a board of drainage commissioners to divide the state into several drainage districts, and organize the same as hereinafter provided. The governor shall be president of the board, and the office of the board shall be in the state engineer's office at the state capitol. The secretary to the state engineer shall be secretary of the board.

Report of state engineer.

Sec. 2. Within thirty days after the passage of this act, or as soon thereafter as may be practicable, the state engineer shall submit to said board a report or reports containing the result of his investigations as to drainage, having in view the control of debris from mining and other operations, the improvement and rectification of river channels, the erection of embankments or dikes necessary for the protection of lands, towns, or cities from inundation. He shall also make special examinations with reference to the division of the state into several drainage districts, each of which shall include a territory drained by one natural system of drainage, and shall report to the board of drainage commissioners the result of his examinations, and shall from time to time propose boundaries for such districts and recommend their formation.

Board to consider the report.

Sec. 3. After the state engineer has reported the boundaries and recommended the formation of one or more drainage districts, the board shall proceed to consider the same, and may adopt, amend, or reject said report; but if adopted by them, either in the original form or amended, they shall, by resolution entered upon the record of their proceedings, declare the said territory to be, and the same shall thereupon become, a drainage district, and shall be known as drainage district number one, two, or three, etc., as the case may

be, numbering the districts in the order in which they are formed; and they shall record, in a book to be kept for that purpose, the boundaries, which shall be clearly defined, with map accompanying of each separate district, its number and date of its formation, and shall file for record with the recorder of each county embraced, or in part embraced, in the district, a copy of the same, which shall be deemed sufficient notice of the formation of said district to all county officers, and to all parties concerned, that the said district has been formed.

Board of directors—Term—Bond—Report.

Sec. 4. Within ten days after the organization of any drainage district the governor shall appoint three persons, residents of the district, who shall constitute a board of directors for the district so formed. They shall hold office for four years[unless sooner removed for cause by the governor], and until their successors are appointed and qualified. They shall organize by electing one of their number president, and shall take the usual oath of office; and shall each give a bond in the sum of twenty-five thousand dollars for the faithful performance of his duties, to be approved by some superior judge of the district, and filed with the board of drainage commissioners. They shall, on or before the first day of January of each year, report to the governor all their proceedings, showing the amount of work done and amount of money they have expended. The governor shall transmit the same to the legislature.

Secretary—Assistant engineer.

Sec. 5. The board of directors shall appoint a secretary, and have an office in the district. The secretary shall receive a salary to be fixed by the directors, not exceeding one hundred dollars per month, payable out of the construction fund of the district; and his term of office shall be at the pleasure of the board of directors of such district. (They shall also appoint an assistant engineer, who shall be styled resident engineer, and whose duties are hereinafter stated.)

Vacancies—Salary.

Sec. 6. The governor shall fill all vacancies that may occur in the board of directors, and each di-

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rector shall receive a salary of one hundred dollars per month, payable monthly out of the construction fund of the district.

Specifications, plans, etc.

Sec. 7. After the formation of any territory into a drainage district, the state engineer, as soon as practicable after proper surveys have been made, shall submit to the board of directors of the district plans, specifications, and estimates of the cost of the works necessary in said district, in order to secure a proper system of drainage therefor. The report shall be accompanied by the concurring or dissenting opinion of the consulting engineer.

Board of directors may adopt, etc.

Sec. 8. After the report of the state engineer, as aforesaid, giving plans, specifications, and estimates of the cost of the works, or any modifications or changes thereof, are made to the board of directors of the district, the board shall adopt, amend, or reject the whole or any portion of such plans, or may refer them back to the state engineer for further report.

Bids.

Sec. 9. After the adoption of the plans and specifications of the work to be done in the district, the board of directors shall advertise for thirty days, in three newspapers of general circulation published therein, for bids for the construction of all or any portion of the works embraced in said plans; the said notice shall state that the plans and specifications of said works are on file in the office of the board of directors of the district, and can there be examined by any person who may so desire; and shall also state that it will be unlawful for any contractor to employ any Chinese or Mongolians in the construction of such works, and state generally the terms and time in which the work shall be constructed, and that the right to reject any and all bids is reserved by said board; and no material used in the construction of such works shall be purchased from any contractor or manufacturer who either directly or indirectly employs any Chinese or Mongolian labor.



### Contracts.

Sec. 10. All contracts shall be awarded to the lowest responsible bidder (if his bid is not deemed by the board too high), and the contractor shall give a good and sufficient bond in not less than twenty-five per cent. of the estimated cost of the work contracted for; the bond, both as to its amount and the sureties thereon, shall be subject to the approval of the board of directors of the district, and when so approved shall be filed in the office of said board. Any members of the board of drainage commissioners, or the state engineer, or consulting or resident engineer, or any superintendent of said works, or any employee of the board of drainage commissioners, any member of the board of directors of any drainage district, or any employee thereof, or of the state engineer's department, who shall be interested in any contract for the construction of any such works in any drainage district, shall be guilty of a felony. If, however, any emergency shall arise rendering it necessary, in the judgment of said board of directors, concurred in by the state board of drainage commissioners, for the protection of works already completed, that immediate repairs or work should be done, the said directors shall have the power to do such work or repairs in the manner which to them seems most advisable.

### Condemnation.

Sec. 11. The board of directors of the district may condemn the right of way for any work necessary for the purpose of the drainage of the district; may purchase or condemn material necessary for the work; may join, connect with, enlarge, or strengthen any works already constructed, and may condemn such lands as may be by them deemed necessary for reservoirs for storing debris from the mines, whether the same be within or without the boundaries of the district, and may provide for connecting the system of drainage of one district with that of another, or for several districts; and it is hereby declared that the use of the property, such as right of way and lands which may be condemned, taken, or appropriated under the provisions of this act, is a public use, and that such appropriation is for the public benefit (provided, that they shall not have the right

or power to purchase or condemn any levee or levees.)

Same.

Sec. 12. Whenever the board of directors of any district cannot procure from the owner or owners thereof, without purchase, the right of way or material needed for the construction of levees or reservoirs (for the storage of debris), or procure the consent to join or connect with any existing works, or procure lands necessary for the construction and completion of the system or plan adopted, the said board of directors may, in the name of the district, proceed to condemn the same under the provisions of Title VII, Part III, of the Code of Civil Procedure, and amendments thereto, which are now existing or may hereafter be made; provided, that cities and towns having levees shall have and retain the exclusive management and control thereof, subject to the right of the district to connect therewith as herein provided.

State engineer to have charge—Resident engineer.

Sec. 13. All works carried on under the provisions of this act shall be executed under the direction of the state engineer (who shall be appointed by the governor), and an assistant for each drainage district, who shall be styled resident engineer, and whose salary shall be fixed by the board of directors of the district, but shall not exceed two hundred dollars per month for each month of actual service. All work shall be done under the immediate supervision of the resident engineer and board of directors of the district, and no work shall be paid for until accepted by such resident engineer and board of directors, and approved by the state engineer.

Construction fund.

Sec. 14. The cost of the works contemplated in this act, embracing all contracts, purchases, or condemnations of property authorized under it, and all proper salaries and incidental expenses, shall be paid out of the "construction fund" of the drainage district for which such works may be constructed. Proper vouchers, in duplicate, for all such expenditures, shall be certified to by the resident engineer of the district, approved by the state engineer, and submitted to the board of di-

rectors at their regular meetings, who shall thereupon audit and allow all just and proper claims, and certify the original voucher for the same to the state controller. The controller shall thereupon draw his warrant upon the state treasurer for the amount thus certified, payable out of the "construction fund" of the proper district, or out of the "state construction fund," as the case may be. The provisions of law requiring claims to be approved by the state board of examiners, before a warrant shall be drawn by the controller therefor, shall not be applicable to claims presented under the provisions of this act.

Funds, how provided.

Sec. 15. To provide funds to pay the construction of the systems of works contemplated by this act, and all expenses connected therewith, the assessors of the several counties embraced in whole or in part in any drainage district shall be ex-officio assessors of the district for the portion of said district included in their respective counties; and each such assessor shall annually assess and make a duplicate assessment-book of all property in that portion of the county of which he is assessor, embraced within such drainage district, and shall deliver the said duplicate assessment-book at the same time and in the same manner and to the same officer or board that he delivers the assessment-book made for the purposes of state and county taxation; and the assessment so made shall be equalized at the same time and by the same officers or boards as assessments made for state and county taxes are equalized. The said duplicate assessment-book shall be treated in all respects by the several state and county officers the same as the assessment-book made for state and county purposes. When the said assessment has been finally equalized by the proper authority, as hereinbefore provided, it shall be the duty of the auditor of the county, in whole or in part embraced in any drainage district, on or before the first day of October of each year, to forward by mail or express, to the board of directors of such district, at their office, a statement showing the total value of all property embraced in said duplicate assessment-book, after the same has been finally equalized, as before stated.

**Tax levy.**

Sec. 16. The board of directors of each drainage district must, on some day in the month of October of each year, levy a tax upon all the property in the district, of one-twentieth of one per cent. on the value of said property. Immediately after the levy of said tax, the board of directors levying the same shall at once notify the auditor of each county in which any portion of any drainage district is embraced of the tax and rate so levied; and each of said auditors shall compute and enter upon the duplicate assessment-book of each district the respective sums to be collected, in the same manner that he makes computation and entry upon the assessment-book for state and county tax purposes, and shall turn the same over to the tax collector at the same time and in the same manner that he does the assessment roll for state and county purposes. The tax collector shall collect such tax or taxes at the same time and in the same manner that they collect state and county taxes; and all laws for the enforcement and collection of state and county taxes now in force, or hereafter to be enacted, shall be applicable to the enforcement and collection of all taxes in this act provided for. The tax collector shall pay the same over to the county treasurer at the same time and in the same manner as state and county taxes are paid. The county treasurer shall pay the same over to the state treasurer at the same time and in the same manner as state taxes are paid, and the state treasurer shall place the same to the credit of a fund to be known as the "construction fund of drainage district number one," "two," "three," etc., as the case may be. Same.

Sec. 17. In case any drainage district is organized after the time provided by law for making assessments for state and county purposes, then the board of directors of such district shall, if they deem it advisable so to do, notify the auditor or auditors of the county or counties embraced in whole or in part in such district; and thereupon each of said auditors shall make a copy from the assessment-book of that county for state and county taxation, as finally corrected and equalized by the proper authority, of all the property in that

county embraced in said district, and shall immediately thereafter prepare, and forward by mail or express to said directors, a statement showing the total value of the property thus assessed and included in said district. The said directors must thereupon, and on some day before the first day of November of that year, levy a tax upon all the property in the district, of one-twentieth (1-20th) of one per cent. of the value of said property; and immediately thereafter they must notify the auditor or auditors of the county or counties embraced in whole or in part in the district of the tax and rate so levied. The auditor of each county so notified shall thereupon compute, and enter upon said copy of the assessment-book, this tax, in the same manner that he does taxes for state and county purposes. The said copy shall then be turned over to the tax collector of the county, and the taxes embraced in the same shall be collected, and finally paid over to the state treasurer, in the same manner and at the same times as stated in the preceding section of this act.

Compensation of auditors and assessors.

Sec. 18. The auditors and assessors of the counties embraced in any drainage district shall be allowed a reasonable compensation for making the duplicate assessment-books, also the auditors for making a copy of the assessment-book; and these claims for such compensation shall be audited and allowed by the directors of such drainage district, and shall be paid in the same manner as other claims against the district.

Hydraulic mine owners to render statement to assessor.

Sec. 19. The owner or owners, or the managing agent, of every hydraulic mine, or any mine using water to wash the earth or ores for mining purposes, which mine may be embraced in whole or in part within any drainage district to be formed or organized under this act, and of all mines the waters from which carry slickens, sand, or debris therefrom run into any such district, shall, on or before the first day of July, A. D. eighteen hundred and eighty, and every year thereafter, at the time required for rendering a statement to the assessor for the purpose of assessing for state and county taxes, render to the

assessor of the county in which the mine is located a sworn statement showing the number of miners' inches of water (of twenty-four hours' run) used by the mine of which he is in whole or in part owner, or the managing agent, for the preceding year ending on the first day of March next preceding the rendition of such statement. The statement shall include also the name and description of the mine. Upon the receipt of such statement from the owner or managing agent of such mines, the assessor shall enter the same in a separate column in the duplicate assessment-book provided for in this act, so that it will show the number of miners' inches of water (of each twenty-four hours' run) used by each of such mines within the county for which he is assessor.

#### Assessment on hydraulic mines.

Sec. 20. The board of directors shall, at the same time in October of each year that they levy the tax hereinbefore provided for, levy an assessment upon all hydraulic mines, and upon all mines washing earth or ores with water running into the district, of one-half of one cent for each miners' inch of water of each twenty-four hours' run, used during such year, and shall notify the auditor of each county embraced in whole or in part in the district, of the amount so levied, and he shall compute and enter upon the duplicate assessment-book the respective sums to be collected from the respective mines; and the tax collector shall collect said assessment at the same time and in the same manner that they collect state and county taxes; and the money so collected shall be paid over in the same manner and at the same time as herein provided for the collection of taxes, and the state treasurer shall place the same to the credit of the "construction fund" of the proper district.

State engineer to make map of unreclaimed swamp or overflowed land.

Sec. 21. Within a reasonable time after the organization of a drainage district, the state engineer shall make a map of all the unreclaimed swamp or overflowed land in the district rendered unfit for cultivation by reason of being swamp or overflowed and not reclaimed, and shall also pre-



pare a list of such lands, describing them by legal subdivisions, and shall file both said map and said list in the office of the directors of the district. Within three months after the filing of this list the directors of the district shall give notice for thirty days in three newspapers of general circulation published in the district, that they will hear evidence, on a day to be named in said notice, for the purpose of correcting errors or omissions in said list. After hearing such testimony as may be offered, they shall correct said list in accordance with the facts.

Directors to prepare list of reclaimed lands.

Sec. 22. On or before the first day of March in each year the directors of any drainage district in which any of the lands described in the list provided for in the preceding section have been reclaimed, by reason of the construction of any of the works contemplated by this act, shall prepare a list or lists of all such lands so reclaimed situate in such district. The list shall contain a description by legal subdivisions, or other intelligent description, of each tract so reclaimed; the name of the owner of each tract; and if unknown, then that fact; the number of acres in each tract; and shall, on or before said date, deliver to the assessor of the county or counties in which any portion of said lands so reclaimed is situated a certified copy of said list so far as the same relates to the lands situated in such county. Whereupon such assessor shall enter the same upon the duplicate assessment-book provided for in this act.

Assessment.

Sec. 23. After any land has been reclaimed, and lists filed with the assessor, the board of directors shall assess the value of the reclamation to each tract of said land, not to exceed three dollars per acre, which shall be payable in six equal payments; provided, no one owner shall be liable for the payment due from any other owner. The directors shall, before the first day of October of each year, notify the auditors of the counties in which the land is situated the amount of assessment per acre that is to be collected on each tract of land, and the auditor shall compute the same and enter the amount in a separate column in the



duplicate assessment-book prepared for the district, and the tax collector shall collect said assessment at the same time and in the same manner as he collects state and county taxes; and the money so collected shall be turned over to the county treasurer and paid by him to the state treasurer, the same as other moneys collected under the provisions of this act. The state treasurer shall place the same to the credit of the "construction fund" of the district to which it belongs.

#### State tax.

Sec. 24. There shall be levied in the year eighteen hundred and eighty, and each year thereafter, by the same officers, at the same time and in the same manner that other state taxes are levied, a tax of one-twentieth of one per cent. on all the taxable property in the state in addition to other state taxes. Said tax must be collected by the same officers at the same time, and paid over at the same time, that other state taxes are collected and paid over. The state treasurer shall place all moneys received by him on account of such tax to the credit of a fund, to be known as the "state drainage construction fund." The state drainage construction fund must be used and drawn upon in the same manner and for the same purposes as the "construction fund" of a drainage district; provided, that all moneys raised under the provisions of this act shall be used exclusively for the construction of dams for impounding the debris from the mines hereinbefore specified, and for the improvement and ratification of river channels in which said debris flows within the drainage districts to be formed under the provisions of this act, at such points thereof as shall be designated by the state engineer, or deemed necessary by the board of directors of such drainage district.

#### Duty of state treasurer.

Sec. 25. The state treasurer is hereby authorized and required to pay all warrants drawn by the state controller upon the "construction fund" of any drainage district, or upon the "state drainage construction fund," out of such fund; provided, that if there be no money in the "state drainage construction fund" to meet the payment of any warrant on that fund, the state treasurer

shall pay such warrants out of any other money in the state treasury not otherwise appropriated, but not exceeding in the aggregate the amount, or the balance of the amount, to be paid into the "state drainage construction fund," under this act, for the current year, upon an estimate based upon the assessed value of all the taxable property in the state for the preceding year; and provided further, that no indebtedness shall be created against either of said funds for any one year in excess of the amount provided to be raised by the tax levy for said year for said funds; said levy to be estimated upon the assessment roll for the previous year; and when the state tax in this act provided for is collected and paid into the treasury, the money so paid shall be repaid from the "state drainage construction fund."

#### Responsibility of officers.

Sec. 26. All officers acting under the provisions of this act, and their bondsmen, are hereby made responsible for the collection, safe-keeping, and proper accounting of the taxes and funds intrusted to them, in the manner herein provided, in accordance with the laws regulating their duties and responsibilities in connection with state and county funds.

#### Construction of act.

Sec. 27. Nothing in this act shall be construed in such a manner as to invalidate the indebtedness of any reclamation or levee district, or any assessment levied therein, or to affect in any manner whatever the laws in force in relation to reclamation and levee districts; nor shall any levees be condemned or purchased under the provisions of this act.

#### Chinese not to be employed.

Sec. 28. No Chinese or Mongolians shall be employed in any capacity whatever on any work to be done in pursuance of the provisions of this act.

Sec. 29. This act shall take effect and be in force from and after its passage.

## An act to promote drainage.

[Approved March 18, 1885; 1885, 204.]

Petition to adopt measures to drain lands.

Section 1. Whenever the owners of two-thirds of any body of lands susceptible of one mode of drainage desire to drain the same, they may present to the board of supervisors of the county in which the lands, or the greater portion thereof, are situated, at a regular meeting of the board, a petition setting forth that they desire to adopt measures to drain the same, the description of the land, the number of acres in the whole district, and the number of acres in each tract, and the names of the owners thereof, and the names of three persons who may desire to serve as trustees for the first three months; the petition must be verified by the affidavit of one of the petitioners, and must be published for four weeks next preceding the hearing thereof, in some newspaper published in the county in which the lands are situated; or if there is no newspaper published in the county, then it must be published in some newspaper having a general circulation in the county, and an affidavit of such publication must be filed with the petition.

District lying in different counties.

Sec. 2. When a district is situated partly in different counties, the trustees must, after the petition has been granted, forward a copy thereof to the clerk of the board of supervisors of any county in which any portion of the district may lie, and the board to which the same is forwarded must not allow another district to be formed within such district, unless with the consent of the trustees thereof.

Formation of district.

Sec. 3. If the board of supervisors find, upon the hearing of such petition, that lands have been improperly included in such district, they may, before fixing the final boundaries, exclude from such district any lands which may have been included, or include any lands adjacent thereto, on petition of any owner of such land presented at such time of hearing, as they may deem for the best inter-

ests of such district; and they must then define the boundaries, declare the district duly formed, and the persons named in the petition for the formation of such district to be the trustees for the first three months, or until their successors are appointed. [Amendment approved March 31, 1891; Stats. 1891, p. 262. In effect immediately.]

Recording petition.

Sec. 4. The petition must then be recorded by the county recorder.

By-laws.

Sec. 5. After the approval of the petition the petitioners may make such by-laws as they deem necessary for future appointment of trustees, and to effect the work of drainage, keep the same in repair and operation, and for the control and management thereof, by the votes or consent of the owners of a majority of the land in the district.

Signing and recording by-laws.

Sec. 6. The by-laws adopted must be signed by persons owning a majority of land in the district, and must be recorded by the county recorder.

Power of board.

Sec. 7. The board thus formed shall have power to elect one of their number president thereof, and to employ engineers to survey, plan, locate, and estimate the cost of the works necessary for drainage, and the land needed for right of way, including drains, canals, sluices, water-gates, embankments, and material for construction, and to construct, maintain, and keep in repair all works necessary to the object in view.

Plans and estimates.

Sec. 8. The board of trustees must report to the board of supervisors of the county, or if the district is situated in more than one county then to the board of supervisors of each county in which the district is situated, the plans of the work and estimates of the costs, together with the estimates of the incidental expenses of superintendence, repairs, etc.

Assessing expense.

Sec. 9. The board by which the district was formed must appoint three commissioners, disin-

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terested persons residing in the county in which the district, or some part thereof, is situated, and such commissioners must view and assess upon the lands situated in the district a charge proportionate to the whole expense, and to the benefit which will result from such work, which charge must be collected and paid into the county treasury as hereinafter provided, and must be placed by the treasurer to the credit of the district, and paid out for the work of drainage upon the warrants of the trustees appointed by the board of supervisors of the county.

Warrants on the treasurer.

Sec. 10. The warrants drawn by the trustees must, after they are approved by the board of supervisors, be presented to the treasurer of the county, and if they are not paid on presentation, like indorsements must be made thereon, and they must be registered in like manner as county warrants.

Payments when district in different counties.

Sec. 11. If a district is situated partly in different counties the charges must be paid into the treasury of the county in which the particular tract may be situated.

Further assessment.

Sec. 12. If the original assessment is insufficient to provide for the complete drainage of the lands of the district, or if further assessments are from time to time required to provide for the protection, maintenance, and repairs of the works, the trustees must present to the board of supervisors by which the district was formed a statement of the work to be done and its estimated cost, and the board must make an order directing that the commissioners who made the original assessment, or other commissioners to be named in such order, to assess the amount of such estimated cost as a charge upon the lands in the district, which assessment must be made and collected in the same manner as the original assessment.

List of charges and of lands.

Sec. 13. The commissioners appointed by the board of supervisors must make a list of the charges assessed against each district of land, and the list must contain a description of each tract

assessed, the number of acres in each tract, and the names of the owners in each tract, if known, and if unknown, the amount of charges assessed against each tract; and the board of commissioners must, on completion of such list, cause a notice to be published in some paper published in the county where such district is situated, and also have such notice posted in three places in such district, to the effect that the board of commissioners will, in ten days from the publication of such notice, meet (and they shall also name the time and place of such meeting) as a board of equalization for the purpose of equalizing assessments, and will continue in session so long as may be necessary, not to exceed ten days, at the end of which time, having equalized and adjusted such assessments, the list must then be filed as herein-after provided. [Amendment approved March 31, 1891; Stats. 1891, p. 262. In effect immediately.]

Filing list.

Sec. 14. The list so made must be filed with the county treasurer of the county, or if the district is partly situated in different counties, then the original list must be filed in the county first in order under alphabetical arrangement, and copies thereof, certified by the commissioners, must be filed with the treasurers of each of the other counties. From and after the filing of the list, or certified copies thereof, the charges assessed upon any tract of land in the county constitutes a lien thereon; and the list thus prepared must remain in the office of the treasurer for thirty days, or longer if ordered by the board of trustees; and during the time they so remain any person may pay the amount of the charges against any tract to the treasurer without costs; or if so ordered by the board of trustees, said payments may be by installments; and if at the end of thirty days, or of the longer period fixed by trustees, all of the charges, or all of any installments ordered by them, have not been paid, the treasurer must return the list to the district attorney, who must at once proceed by civil action to collect such charges.

Executing work.

Sec. 15. The work must be executed under the



direction and in the manner prescribed by the board of trustees.

Account of expenditures.

Sec. 16. The board must keep accurate accounts of all expenditures, which accounts, and all contracts that may be made by them, are open to the inspection of the board of supervisors, and every person interested.

Purchases by trustees.

Sec. 17. The trustees may acquire, by purchase, all property necessary to carry out and maintain the system of drainage provided for.

Eminent domain.

Sec. 18. The trustees may acquire, by condemnation, the right of way for canals, drains, embankments, and other works necessary, and may take materials for the construction, maintenance, and repair thereof from lands outside of as well as in the limits of said district.

Same.

Sec. 19. The provisions of Title VII, Part III, of the Code of Civil Procedure are applicable to, and condemnation herein provided for must be made thereinunder.

Drainage by owners.

Sec. 20. Whenever any district susceptible of one mode of drainage, entirely owned by parties who desire to drain the same, and to manage such drainage without the intervention of trustees, or the establishment of by-laws, they may file the petition provided for in sections one and two, and must state therein that they intend to undertake such drainage on their own responsibility. If the petition is granted, the owners of the land have all the rights, immunities, and privileges granted to boards of trustees, and in all proceedings the names of owners may be used instead of the names of trustees.

Sec. 21. This act shall take effect upon its passage.

In addition to the foregoing, the following acts may be consulted:



An act to appropriate money to pay the indebtedness incurred under an act entitled "An act to promote drainage," approved March 23, 1880.  
[Approved March 10, 1885; 1885, 78.]

An act to abolish the state drainage construction fund, and directing the transfer of any balance remaining therein to the general fund.  
[Approved March 1, 1893; Stats. 1893, p. 64.]

An act to provide for the organization and government of drainage districts, for the drainage of agricultural lands other than swamp and overflowed lands.

[Stat. approved March 31, 1897; Stats. 1897, chap. ccxxviii.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. Whenever fifty, or a majority of the holders of title, or evidence of title as herein provided, to agricultural lands other than lands known as swamp and overflowed lands, which are susceptible of one general mode of drainage by the same system of works, desire to provide for the drainage of such lands, they may propose the organization of a drainage district under the provisions of this act, and when so organized such district shall have the powers, rights, and duties conferred, or which may be conferred by law, upon such drainage district. The equalized county assessment roll next preceding the presentation of a petition for the organization of a drainage district under the provisions of this act, shall be sufficient evidence of title for the purposes of this act; provided, that no person who has received or acquired title to land within such proposed district for the purpose of enabling him or her to join in such petition or to become an elector of said district, shall be allowed to sign such petition or to vote at any election to be held in such district under the provisions of this act. Such il-

legal signing, however, shall not invalidate such petition when there shall be found a sufficient number of other legal petitioners.

Sec. 2. A petition shall first be presented to the board of supervisors of the county in which the lands, or the greatest portion thereof, are situated, signed by the required number of the holders of title or evidences as above provided of title of such proposed district, which petition shall set forth and particularly describe the proposed boundaries of such district, and shall pray that the same be organized under the provisions of this act. The petitioners must accompany the petition with a good and sufficient bond, to be approved by the said board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the obligors will pay all the cost in case such an organization shall not be effected. The petition shall be presented at a regular meeting of the said board of supervisors, and shall have been published for at least two weeks before such presentation in some newspaper printed and published in the county where the petition is presented, together with a notice stating the date of the meeting of said board at which the petition will be presented; and if any portion of the proposed district lies within another county, or counties, then said petition and notice shall be likewise published in a newspaper printed and published in each of such counties.

Sec. 3. When such petition is presented, the board of supervisors shall hear the same, and may adjourn such hearing from time to time, not exceeding four weeks in all, and on the final hearing may make such changes in the proposed boundaries as they may find to be proper, and shall define and establish such boundaries; provided, that said board shall not modify said boundaries so as to except from the operation of this act any territory within the boundaries of the proposed district which is susceptible of drainage by the same system of works applicable to the other lands in such proposed district; nor shall any land which will not, in the judgment of said board, be benefited by drainage by such system, be subjected to the operation of this act; provided, that any person whose lands are susceptible of drainage by the

same system of works, may, in the discretion of the board, upon application of the owner, have such lands included in such district. Said board shall, when requested in the petition by its order, divide such district into three or more divisions, as nearly equal in size as practicable, which divisions shall be numbered consecutively, and one director and one assessment commissioner, each of whom shall be an elector and a resident freeholder of the division, shall be elected by each division; provided, that when requested in the petition, three directors and three assessment commissioners, residents, electors, and freeholders of the district, shall be elected at large by the qualified electors of the district. Said board of supervisors shall then establish a convenient number of election precincts for said proposed district, define the boundaries thereof, and designate the polling places therein, which precincts and polling places may thereafter be changed by the board of directors. The board of supervisors shall also appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct, with the powers and duties hereinafter prescribed for like boards in subsequent elections. Said board of supervisors shall then give notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall designate a name for such proposed district, and describe the boundaries thereof and the boundaries of the precincts established therein, together with a designation of the polling place and board of election for each precinct; and shall require the electors of the proposed district to cast ballots which shall contain the words "Drainage District—Yes," or "Drainage District—No," or words equivalent thereto, and also the names of one or more persons (according to the divisions of the proposed district as prayed for in the petition and ordered by the board), to be voted for to fill the office of director, and one or more persons to fill the office of assessment commissioner. Such notice shall be published for at least three weeks prior to such election in a newspaper within said

county; and if any portion of such proposed district lie within another county or counties, said notice shall also be similarly published in a newspaper published within each of said counties. No person shall be entitled to vote at any election held under the provisions of this act unless he shall possess all the qualifications required of electors under the general election laws of this state; provided, that any person owning land within such district, wherever resident in this state, shall be entitled to vote at any election held in such district under the provisions of this act. Except as herein provided, such election shall be conducted, as nearly as practicable, in accordance with the general election laws of this state; provided, that no particular form of ballot shall be required.

Sec. 4. The said board of supervisors shall, on the first Monday succeeding such election, if then in session, or at its next succeeding general or special session, proceed to canvass the votes cast thereat, and if, upon such canvass, it appear that at least two-thirds of all the votes cast are "Drainage District—Yes," the board shall, by an order, entered in its minutes, declare such territory duly organized as a drainage district, under the name theretofore designated, and shall declare the persons receiving, respectively, the highest number of votes for directors and assessment commissioners, to be duly elected to such offices. And no action shall be commenced, or maintained, or defense made, affecting the validity of the organization of such district, unless the same shall have been commenced or made within two years after the making and entering of said order. Said board shall cause a copy of such order, duly certified, to be immediately filed for record in the office of county recorder of each county in which any portion of such lands are situated, and must also immediately forward a like copy thereof to the clerk of the board of supervisors of each of the counties in which any portion of the district may lie; and no board of supervisors of any county including any portion of such district shall after the date of the organization of such district, allow another district to be formed, including any of the lands in such district without the

consent of the board of directors thereof; and from and after the date of such filing the organization of such district shall be complete, and the officers, thereof shall upon qualifying in accordance with law, be entitled to enter upon the duties of their respective offices, and shall hold such offices, respectively, until their successors are elected and qualified.

Sec. 5. In each district organized as herein provided, an election shall be held in each second year thereafter, on the same day on which the first election in such district was held, at which a board of directors for the district, and also, when so ordered by the board of directors, assessment commissioners, as provided in section three of this act, shall be elected. The person receiving the highest number of votes for any office to be filled at such election, is elected thereto. Within ten days after receiving their respective certificates of election each of said persons shall take and subscribe the official oath, to be indorsed upon their respective certificates, which shall be filed in the office of the board of directors. Each assessment commissioner shall execute an official bond in the sum of one thousand dollars, which shall be approved by, and filed with the board of directors, and each director shall execute an official bond in the sum of five thousand dollars, which shall be approved by the judge of the superior court of the county where the organization of the district was effected, and shall be recorded in the office of the county recorder of such county, and filed with the secretary of the board of directors. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers.

Sec. 6. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in a conspicuous place in the office of said board, which shall be established and kept at the county seat of the county where the organization of the district effected, specifying the officers to be elected, the

polling places of each precinct, and the names of the members of the boards of election, for each precinct. Prior to the time for posting such notices the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of the election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the place within each precinct where the election must be held.

Sec. 7. The inspector is chairman of the election board, and may:

First—Administer all oaths required in the progress of an election.

Second—Appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election for each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be open at nine o'clock A. M., and kept open until four o'clock P. M., when the same must be closed. The provisions of the Political Code relating to the form of ballots to be used shall not apply to elections held under this act.

Sec. 8. Voting may commence as soon as the polls are open and may be continued during all the time the polls remain open, and shall be conducted as nearly as practicable in accordance with the provisions of chapter nine of title two of part three of the Political Code of this State. As soon as the polls are closed, the judges shall open the ballot-box, and commence counting the votes; and in no case shall the ballot-box be removed from the room or place where the election is held, until



all the ballots have been counted, which counting shall in all cases be public. The ballots shall be taken out one at a time by the inspector or one of the judges, who shall open the same, and read aloud the names of each person thereon, and the office for which name is voted for. Each clerk shall write down each office to be filled, and the name of each person voted for for such office, and shall keep the number of votes by tallies, as they are read aloud by the inspector or judge. The counting of votes shall be continued, without adjournment, until all have been counted.

Sec. 9. As soon as all the votes are read off and counted, a certificate shall be indorsed on each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each person voted for has received, and designating the office to fill which such person was voted for, which number shall be written in figures and words at full length. Each certificate shall be signed by the clerk, judge, and inspector. One of said certificates, with the poll list and tally paper to which it is attached, shall be retained by the inspector, and by him preserved for six months. The ballots shall be strung upon a thread by the inspector during the counting thereof, in the order in which they are entered upon the tally list by the clerks, and such ballots, together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks and indorsed "Election returns of (naming the precinct) precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector or by some other safe and responsible carrier, designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months; and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of such precinct.

Sec. 10. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, - showing:



First—The whole number of votes cast in the district, and in each division of the district.

Second—The names of the persons voted for.

Third—The office to fill which each person was voted for.

Fourth—The number of votes given in each precinct to each of such persons.

Fifth—The number of votes given in each division for the office of director and for assessment commissioner. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board. In case of vacancy in the office of assessment commissioner, the vacancy shall be filled by appointment by the Board of Supervisors of the county where organization was effected. An officer appointed as above provided shall hold such office until the next regular election for said district and until his successor is elected and qualified.

Sec. 11. On the first Wednesday in the month next following their election, the directors shall meet and organize as a board, elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The board shall have the power, and it shall be their duty to manage and conduct the business and affairs of the district; make and execute all necessary contracts, employ and appoint, when necessary, engineers to survey, plan, locate, and estimate the cost of the works necessary for drainage, and the land needed for right of way, including drains, canals, sluices, watergates, embankments, and material for construction, and to construct, maintain, and keep in repair all works necessary for the purpose of drainage, and generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. The board may establish equitable by-laws, rules, and regulations necessary or proper for carrying on the business herein contemplated.

Sec. 12. The board of directors shall hold regular meetings at their office on the first Tuesday in March, June, September, and December, and such special meetings as may be required for the prop-

er transaction of business; provided, that all special meetings must be ordered by a majority of the board by an order entered in the minutes specifying the business to be transacted. Three days' notice to any member not joining in the order must be given by the secretary, and only the business specified in the order must be transacted at such special meeting. All meetings of the board must be public, and a majority of members shall constitute a quorum for the transaction of business. A minute of all proceedings of the board must be kept by the secretary, and all records of the board shall be open to inspection during business hours. The board and its agents and employés shall have the right to enter upon any land, to make surveys, and may locate the necessary drainage works, and the line for any canals, sluices, water-gates, and embankments, and the necessary branches for the same on any lands which may be deemed best for such location; and said board shall have the right to acquire, hold, and possess, either by donation, purchase, or condemnation, any land or other property, necessary for the construction, use, maintenance, repair, and improvement of any works required for the purpose of drainage as provided herein. In case of condemnation, the board shall proceed in the name of the district under the provisions of title seven, of part three of the Code of Civil Procedure of this State, which said provisions are hereby made applicable for that purpose; and it is hereby declared that the use of property which may be condemned, taken, or appropriated under the provisions of this act, is a public use, subject to regulation and control of the State in the manner prescribed by law.

Sec. 13. The legal title to all property acquired under the provisions of this act shall vest in such district, and shall be held by the same in trust for, and the same is hereby dedicated and set apart to the uses and purposes set forth in this act, and said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, and possess such property as herein provided. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this act, in the name of such district, to and for the uses and

purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law, or in equity, necessary or proper, in order to fully carry out the provisions of this act, and to enforce, maintain, protect, or to preserve any and all rights, privileges, and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits, and proceedings, the said board may sue, appear, and defend, in person or by attorney, and in the name of such drainage district.

Sec. 14. Upon the adoption of a plan of drainage by the board of directors of any district organized under the provisions of this act, said board shall prepare an assessment book for such district, with proper headings, in which must be listed all lands within the district, specifying in separate columns and under appropriate heads:

First—The name or names of the owner or owners to whom the land is listed. If the name or names is not known to the board, the land shall be listed to “unknown owners.”

Second—A description of each forty-acre tract or lot by township, range, section, and fractional section, and when such tract or lot is not a congressional subdivision by metes and bounds or other description sufficient to identify it, giving the locality and an estimate of the number of acres.

Third—City and town lots, naming the city or town, and the number and block, according to the system of numbering or designating in such city or town.

Said assessment book shall also contain proper columns and headings for entries showing:

First—The amount of assessments as fixed by the board of assessment commissioners on each forty-acre tract or lot, or fraction thereof.

Second—The amount of assessment fixed by said commissioners on each city and town lot.

Third—All changes made by the board of directors in such assessments when acting as a board of equalization.

Fourth—The total amount of all assessments after equalization by the board of directors.

Fifth—Such other matters as the board of directors may require.

Sec. 15. The board of directors shall deliver the assessment book, when completed, to the board of assessment commissioners, together with a report showing the total estimated cost, including expenses of organization and of purchases or condemnation of property, of the work contemplated in the plan of drainage adopted for the district, and the estimated cost for repairs, and the incidental expenses of such district, for the ensuing ten years. The board of assessment commissioners shall thereupon, as soon as practical, proceed to ascertain, determine, and assess upon each forty-acre tract, or fraction thereof, and each city or town lot, within the district, an assessment in proportion to the entire cost, as estimated by the board of directors, and the benefits to be derived from drainage to each tract, fraction, city, or town lot, and enter such amount, estimated, in United States gold coin, in the proper column in the said assessment book, and return the same, with the columns added up, to the board of directors. The board of directors must immediately give notice of the reception of said assessment, and of the time they, acting as a board of equalization, will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for such meeting shall not be less than ten nor more than twenty days from the first publication of the notice, and in the meantime the assessment book must remain in the office of the board for the inspection of all persons interested.

Sec. 16. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from day to day (excluding Sundays) as long as necessary, not to exceed ten days, to hear and determine such objections to the valuation and assessment as may come before them, and to equalize the assessment and the board may change the valuation as may be just. The secretary of the board must be present during its sessions, and note all changes made in the assessment, and in the names of the persons whose property is assessed; and within ten days after the close of the session he shall have the

total values and assessments, as finally equalized by the board, extended into columns and added up. The sums thus fixed against each forty-acre tract, or fraction thereof, and against each city and town lot, shall be the basis for all assessments within such district for the next ensuing ten years; provided, that the board of directors may thereafter, whenever in their judgment a new assessment of all the land within the district becomes necessary, order such new assessment to be made either by the same board of assessment commissioners or by a new board to be elected for that purpose at the next ensuing regular election in such district. In the latter case, notice shall be given for the election of such board of assessment commissioners, and such election shall be conducted in all respects as herein provided for the election of such board in the first instance.

Sec. 17. The board shall then determine the portion of the costs and expenses estimated, as provided in section fifteen of this act, it will be necessary to raise for the ensuing fiscal year, and shall levy an assessment upon the equalized sums charged upon each tract or lot listed in the assessment book sufficient to raise the amount so determined; and shall annually thereafter, whenever further assessments for such purposes are necessary, levy the same in like manner. The secretary of the board must compute and enter, in a separate column of the assessment book, the respective sums, in dollars and cents, to be paid on each tract and lot therein enumerated. When collected, the assessment shall be paid into the county treasury of the county where the district was organized, and the County Treasurer of said county is hereby authorized and required to receive and receipt for the same, and place the same to the credit of the district, in a fund to be called the "Fund of ——— Drainage District," and shall be responsible upon his official bond for the safe-keeping and disbursement of the same, as in this act provided. He shall pay out of the same only upon warrants of the board of directors, signed by the president and attested by the secretary. The treasurer shall report in writing, at each regular meeting of the board of directors, and as often thereafter as requested by the board, the amount of money in the

fund, the amount of receipts since his last report, and the amounts paid out; such reports shall be verified and filed with the secretary of the board.

Sec. 18. The assessment authorized by the preceding section is a lien against the property assessed from and after the date when the same is made and entered in the assessment book, as provided in said section, and such lien shall continue until such assessment is paid, or the property assessed is sold for the payment thereof.

Sec. 19. The Tax Collector of the county where the district was organized is hereby constituted ex officio tax collector for the district, and the secretary of the board of directors must, as soon as practicable after the same is completed, deliver to such Tax Collector the assessment book, who is hereby authorized and directed to receive and receipt for the same, and within ten days thereafter publish a notice in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable at his office, and, if not before paid, will become delinquent at six o'clock P. M. on the last Monday in December next thereafter, when five per cent will be added to the amount thereof, which notice shall be published for a period of four weeks. The collector must mark the date of payment of any assessment in the assessment book opposite the name of the person paying, or the property on which the same is paid, and give a receipt to the person making such payment, specifying the amount of the assessment and the amount paid, with a description of the property assessed. On the last Monday in December, at six o'clock P. M. of each year, all unpaid assessments are delinquent; and thereafter the collector must collect thereon an addition of five per cent for the use of the district.

Sec. 20. On or before the first day of February, the collector must publish the delinquent list, which must contain the names of the persons, or as "unknown," where the same is not known, and a description of the property delinquent, and the amount of the assessments and costs due opposite each name and description. He must attend to and publish, with the delinquent list, a notice that unless the delinquent assessments, together with



costs and percentage, are paid, the property assessed will be sold at public auction. The publication must be made once a week for three successive weeks, in a newspaper in each county in which the property on which the assessment is delinquent is situated. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days, from the first publication, and the place must be in front of the court-house of the county where the district was organized.

Sec. 21. The collector must collect, in addition to the assessments due on the delinquent list and five per cent added, fifty cents on each lot, piece, or tract separately assessed, one-half of which must go to the district and the other to the collector for preparing the list. On the day fixed for the sale, or some subsequent day, to which he may have postponed the sale, of which he must give notice, the collector, between the hours of ten A. M. and three o'clock P. M., must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically, or in the numerical order of the lots or blocks, until completed. He may postpone the day of commencing sales or sale from day to day, but the same must be completed within three weeks from the day first fixed. If any sale or sales be stayed by judicial process, the time of such stay is not part of the time limited for making such sale or sales.

Sec. 22. The owner or person in possession of any property offered for sale for assessments due thereon, may designate in writing to the collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if such person does not, then the collector may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessments and costs due, including two dollars to the collector for the duplicate certificate of sale, is the purchaser. If the purchaser does not pay the assessments and costs before ten o'clock A. M. the following day, the property on the next sale day must be resold for the assessments and costs. In case there is no purchaser in



good faith for the property on the first day it is offered for sale, then when the same is offered thereafter for sale, and there is no purchaser in good faith, the entire property assessed shall be struck off to the drainage district, within which the tract, parcel, or lot is situated, as the purchaser, and the duplicate certificate of sale delivered to the treasurer of the district, and filed by him in his office. No charge shall be made for the duplicate certificate where the district is the purchaser, and in such case the collector shall make an entry, "sold to the district," and he shall be credited with the amount thereof in his settlement. A drainage district as purchaser, at such sale, shall be entitled to the same rights as an individual purchaser, and the title so acquired by the district, subject to the right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of the board of directors; provided, that authority to so convey must be confirmed by resolution of the board, entered on its minutes, fixing the price, not less than the reasonable market value of the property, which shall not be sold at less than the price fixed. After receiving the amount of assessments and costs, the collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the purchaser and the other filed in the office of the County Recorder of the county in which the land is situated.

Sec. 23. Before delivering any certificate the collector must, in a book, enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, purchasers' names and amount paid, regularly number the description on the margin of the book, and put a corresponding number on the certificate. Such book must be open to public inspection without fee, during office hours when not in actual use. On filing the certificate with such County Record-

er, the lien of the assessments vests with the purchaser, and is only divested by payment to him or to the collector for his use, the purchase money, and two per cent per month from the day of sale until redemption.

Sec. 24. A redemption of the property sold may be made by the owner, or any party in interest within twelve months from the date of purchase; redemption must be made in gold or silver coin as provided for the collection of state and county taxes, and when made to the collector he must credit the amount paid to the person named in the certificate, and pay it on demand to such person or his assignee. In each report the collector makes to the board of directors, he must name the person entitled to redemption money, and the amount due to each. On receiving the certificate of sale, the County Recorder must file it, and make an entry in a book similar to that required of the collector. On presentation of the receipt of the person named in the certificate, or of the collector for his use of the total amount of redemption money, the Recorder must mark the word "redeemed," the date, and by whom redeemed on the certificate, and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within twelve months from the same, the collector or his successor in office must make to the purchaser or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The collector shall receive from the grantee, for the use of the district, two dollars for making such deed.

Sec. 25. The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that:

First—The property was assessed as required by law.

Second—That the property was equalized as required by law.

Third—That the assessments were levied in accordance with law.

Fourth—The assessments were not paid.

Fifth—That at a proper time and place the property was sold as prescribed by law, and by the proper officer.

Sixth—That the property was not redeemed.

Seventh—The person who executed the deed was the proper officer.

Such deed duly acknowledged or proved (except as against actual fraud) is conclusive evidence of the regularity of all proceedings from the assessment by the board of assessment commissioners, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein, free of all incumbrances, except when the land is owned by the United States or by this State, in which case it is *prima facie* evidence of the right of concession.

Sec. 26. The assessment book, or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments, against any property, is *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all forms of law in relation to the assessment and levy of such assessments have been complied with.

Sec. 27. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner or supposed owner, or other mistake relating to the ownership thereof, affects the sale or renders it void or voidable.

Sec. 28. On the first Monday of each month, the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to, and file in the office of the secretary a statement, under oath, showing:

First—An account of all transactions and receipts since his last settlement.

Second—That all money collected by him as collector has been paid.

He shall also file in the office of the secretary on each settlement the receipt of the treasurer for the money so paid. The collector shall be accountable, upon his official bond, for all moneys collected by him, and for the faithful performance of all duties imposed upon him by this act.

Sec. 29. The board of directors shall have power to construct the works necessary for drainage purposes across any street, avenue, highway, railway, canal, ditch, or flume which the route of said works may intersect or cross, in such manner as to afford security for life and property; and shall restore the same, when crossed or intersected, to its former state as near as may be, or in such manner as not to have impaired, unnecessarily, its usefulness. Every company whose railroad, and the Board of Supervisors, where any public highway shall be intersected or crossed by said works, shall unite with said board of directors in forming such intersections and crossings, and grant the privilege aforesaid; and if said railroad company, or said Board of Supervisors, or the owners and controllers of said property, thing, or franchise so to be intersected or crossed, and said board of directors, cannot agree upon the amount to be paid therefor, or the points or manner of such crossings or intersections, the same shall be ascertained and determined in all respects as herein provided in respect to the taking property by condemnation. The right of way is hereby given, dedicated, and set apart to locate, construct, and maintain such necessary drainage works over and through any lands which are now or may be the property of this State.

Sec. 30. All claims against the district must be presented to the board for audit and allowance, and if legal charges against the district, the same must be paid by the treasurer, on warrants of the district, signed by the president of the board, and countersigned by the secretary; provided, that the board shall not have power to audit or allow any claim against the district, or to draw any warrant for the payment of the same, which shall exceed in any fiscal year the revenue provided for such fiscal year.

Sec. 31. Each member of the board of directors shall receive three dollars per day for each day's attendance at the meetings of the board, and actual and necessary expenses paid while engaged in official business under the order of the board. The board shall fix the compensation of the assessment commissioners, secretary, treasurer, and collector, which shall be paid out of the treasury of

the district in like manner as other expenses are paid.

Sec. 32. None of the provisions of this act shall be construed as repealing or in anywise modifying the provisions of any other act relating to the subject of drainage.

Sec. 33. This act shall take effect from and after its passage.

An Act to provide a system of drainage for agricultural, swamp, and overflowed lands.

[Approved March 3, 1881; Stats. 1881, 15.]

#### Duty of Supervisors.

Section 1. Whenever two or more landowners shall petition the Board of Supervisors for a ditch, drain, or other watercourses, defining the place of beginning, and the lands through which it or they are to pass to their outlets, and state their estimated course, and shall give said Supervisors good and sufficient bonds for the payment of all costs that may accrue (provided said petition should not be granted), said Supervisors shall, within thirty days of the presentation of said petition, appoint a day for the hearing of the same; they shall also cause to be published, in some newspaper having a general circulation in the county, a copy of said petition, together with the time and place set to hear and answer said petition.

#### Duty of Surveyor.

Sec. 2. Said Supervisors shall also direct the county surveyor to survey the line of said proposed ditch, or water-way, taking notes of the descent of the land, and report to them on or before said day of hearing the descent, if any, between the head and outlet of said ditch, together with a list of the intermediate grades, and the lands or interests to be affected thereby, and such other information as may come under his notice on the subject. In locating such ditches or drains, when practicable, they shall be located on section or subdivision lines.

Costs, when paid by petitioners.

Sec. 3. If, on the day of hearing, the Supervisors shall find the location of said ditch impractic-

able, for causes hereinafter described, the costs shall be collected from the petitioners or their bondsmen.

When ditch to be constructed.

Sec. 4. If the Supervisors shall, on hearing the petition, find that the construction of the ditch would be conducive to the general welfare of the landowners so petitioning, and not inconsistent with the rights and privileges of other contiguous territory, to construct drains or ditches, and if the surveyor reported sufficient fall to make the ditch available, then the supervisors shall, in their discretion, grant the prayer of the petitioners, and shall proceed to examine the lands affected by it, and shall cause said ditch to be surveyed, and stakes set every one hundred feet, and cause a journal to be made of the depth and width to be excavated at each stake.

Apportionment of work.

Sec. 5. Said Supervisors shall then apportion the excavation of said ditch to the lands affected thereby, according to the benefits received, after notice to the owners of the time of making such apportionment, and giving to each a hearing. They shall also, in like manner, apportion the cost of locating, including right of way (when not donated), in lawful money of the United States, and shall appoint a day for the hearing of exceptions to the apportionment. On the second hearing they shall apportion the cost and labor of said ditch to the land affected thereby; but no Supervisor who is directly or indirectly interested in such ditch shall take part in such apportionment.

Notice to landowners.

Sec. 6. The board shall then give notice, in writing, to all the resident landowners of the part of ditch apportioned to them, as described by the stakes and their numbers, and of the specifications of the ditch, and also of the costs in money as apportioned to them; and if any of the owners or lands affected thereby are non-residents of the county, they shall cause to be printed, in a county newspaper having a general circulation, a copy of said apportionment, together with the time set for the completion of the work.



### Examination of work.

Sec. 7. On the day set for the completion of the work, or as soon thereafter as practicable (which shall be after a reasonable time), said Supervisors shall proceed to examine said ditch or ditches, and if, in their opinion, any portion thereof shall not be completed according to the specifications, they shall notify the person to whom said portion was awarded to complete the same within such time as they may designate. If not so completed at the expiration of the time specified, said Board of Supervisors shall advertise the construction of the same by posting notice in three conspicuous places within the territory affected by said ditch. Upon the day specified in said notice, said Supervisors shall proceed to let the same to the lowest responsible bidder, who shall give such bonds as shall be required by said board, and shall proceed to complete such works to the satisfaction of said board in the time agreed upon. The board shall report the cost of such work to the county auditor, who shall cause the amount thereof to be entered on the tax-books of the county, and the same shall be a tax upon said lands, which amount shall be collected the same as other taxes, and paid to the party performing such work.

### Disposal of funds.

Sec. 8. The County Treasurer shall place such funds to the credit of each respective ditch fund, and shall pay out the same on warrants drawn by the Board of Supervisors. The treasurer shall receive as compensation for his services one per cent of all moneys by him disbursed under this act.

### Road overseer to have charge.

Sec. 9. All ditches and drains constructed under the provisions of this act shall be in charge of the road overseer through whose district such drains are constructed. The Board of Supervisors shall, at their meeting in December of each year, advertise for bids to keep all ditches and drains created under the provisions of said act clean and free from all rubbish, and graded to the original established grade for the period of one year. Said notice shall be given by publication in some paper of general circulation, published in said county,

for at least two months before the monthly meeting of said board in January. At which time the bids for doing said work shall be opened and the contract awarded to the lowest responsible bidder, whose bid shall have been accompanied by a certified check for at least twenty-five per cent of his bid, and which shall be forfeited to the county if he shall fail, refuse, or neglect to file a bond, with two sufficient sureties, payable to said county within ten days. Any bidder to whom any contract has been awarded, who shall fail, refuse, or neglect to file the bond required by this act, shall be awarded to the next lowest responsible bidder, and so on until all bidders have had an opportunity of complying with their bid, and the certified check of each bidder who shall have an opportunity to take such contract shall be forfeited to the county, and each bidder except the first shall file his bond within ten days after receiving notice that he has been awarded the contract. If all the bidders shall fail, refuse, or neglect to file a bond and to complete said work, the board shall have power to enter into a contract with any responsible party without advertising; provided, they shall have no power to award the contract for a greater sum than twenty-five per cent more than the lowest bid received upon such advertisement. The amount of said contract shall be levied against the lands in accordance with the apportionment when such ditch was originally constructed, and shall be collected by the Tax Collector at the same time and in the same manner as the state and county taxes are collected. [Amendment approved March 27, 1897; Stats. 1897, chap. clxiv.]

#### Encroachments or obstructions.

Sec. 10. Any person causing an encroachment or obstruction to any ditch or drain created under the provisions of this act, and failing to remove the same for the space of twenty-four hours after notice shall have been given to such person by the road-master, if he can be found in the county, otherwise by posting by him, at or near the place of encroachment or obstruction, may be fined not exceeding two hundred dollars, or imprisoned not more than thirty days in the county jail, or by

both such fine and imprisonment. The fines so collected shall be placed to the credit of the district road fund where such encroachment or obstruction is had, and proceedings for such offenses may be had before any court of competent jurisdiction.

#### Construction.

Sec. 11. The provisions of this act shall not be construed so as to permit waters to be carried out of their natural course to augment other streams or drains, to the damage of the residents along the banks of the streams or drains so augmented.

#### Condemnation.

Sec. 12. Whenever the board of supervisors cannot purchase, at a reasonable price, or procure the right of way, or procure the consent of all parties interested to join or connect with any existing ditches or outlets, the president of the board may proceed to condemn the same under the provisions of Title VII., Part III., of the Code of Civil Procedure, and amendments thereto, which are now existing or may hereafter be made, at the expense of the parties so petitioning.

Sec. 13. This act shall take effect and be in force from and after its passage.

## TITLE 75.

## EDUCATION.

See Colleges.

An Act to encourage and provide for the dissemination of a knowledge of the arts, sciences, and general literature, and the founding, maintaining, and perpetuating public libraries, museums, and galleries of art, and the receipt of donations and contributions thereto when established; for the conveyance, holding, and protection of real property within this state suitable for the purposes herein designated, and the erection thereon of buildings appropriate to such purposes, and for the creation of trusts necessary or proper for the better preservation of such institutions, and the control and management thereof.

[Approved March 5, 1887; 1887, 26.]

Manner of conveying gifts for dissemination of knowledge of arts, etc.

Section 1. Any person intending in his lifetime, or by will or trust deed, to operate, after his death, to found, maintain, and perpetuate in this state a public library, museum, gallery of art, or any or all thereof, for the diffusion of mechanical, scientific, artistic, and general knowledge, may to that end and for such purpose, and for any purpose within the purview of the title of this act, convey in writing by words denoting a gift or grant to one or more trustees named in such gift or grant, and to their successors, any library or collection of books and works for such public library, or any museum, or gallery of art in this State, and such gift or grant may also express and shall be construed to be a conveyance of the future additions and accretions thereof; and he may also in like manner, to that end, and for such purpose, convey by grant to such trustee or trustees any real property within this State belonging to him, which may be necessary or proper for the erection and

maintenance of buildings suitable to such institution, and the buildings erected thereon, with grounds conveniently adjacent thereto, and other lands, tenements, and hereditaments for the purpose of producing an income for the support and maintenance of such institutions, or any of them, and any collateral burdens which may be imposed by the terms of such foundation as part and parcel of the regulations for its conduct, and also personal property of all descriptions, which may subserve the purposes of the institution and maintenance of any such library, museum, or gallery of art.

Gifts by other than founder.

Sec. 2. Any contributions or gifts by any other person than the founder, or any property suitable to the general plan or support of any institution mentioned in the title of this act, shall immediately vest in the trustees, and become incorporated into and subject to the trust, and to all its terms and conditions, and be managed under the rules and regulations prescribed therefor.

Sec. 3. The person making such gift, grant, or conveyance, as founder, may therein designate,—

1. The name by which the institution so founded and maintained shall be known.

2. Its nature, object, and purposes.

3. The powers and duties of the trustees, which shall not be exclusive of other powers and duties that, in their judgment, may be necessary more effectually to carry out the purposes of such institution.

4. The mode and manner and by whom the successors to the trustees named in the gift or grant shall be appointed.

5. Such rules and regulations for the management of such institution, and the furtherance of its purposes, as the grantor may elect to prescribe; but such rules and regulations shall, unless the grant shall otherwise prescribe, be deemed advisory only, and shall not preclude such trustees or their successors from making such changes as new conditions may, from time to time, require.

6. The place or places where the necessary buildings shall be erected, and the general character thereof. The person making such grant may

therein provide for all other things necessary and proper to carry out the purposes thereof, or otherwise, by his last will or testament.

Sec. 4. The trustees named in such gift or grant, and their successors, may, in the name of such institution designated in the gift or grant, sue and defend in relation to the trust property, and to all matters affecting the institution so founded and established.

Privileges granted to founder.

Sec. 5. By a provision in such gift or grant, the founder may elect, in respect to the personal and real property conveyed, and the additions and increase thereof, and in respect to the erection, maintenance, and management of any buildings auxiliary thereto, and in respect to any property connected with such institution, to reserve to himself a veto and right of annulment or modification of any act of such trustees, in case he shall, within thirty days after notice of the performance of such act, file in the office of said trustees, or deliver to their president or principal officer, a notice in writing, of such veto, annulment, or modification, and upon a like notice, in conformity with a provision in such gift or grant, he may elect to perform during his life all the powers which, by the terms thereof, are vested in or enjoined upon the trustees therein named, and their successors; provided, that upon the death or disability to act of the founder and grantor, such powers and duties shall be devolved upon, and be exercised by, the trustees named in the gift or grant, and their successors. Such person may also reserve the right to alter, amend, or modify, at any time during his life, or by his last will and testament, the terms and conditions thereof, and the trusts therein created in respect to such institution, its buildings, and the property conveyed therefor.

Election of officers and compensation.

Sec. 6. The founder shall have power in said deed of trust to name and describe the character and personality of any one or more of the immediate or future trustees, the librarian, and other officers, and to name and impose any particular duty to be performed by any one or more trustees or other officers so described and characterized, and



to declare and limit any compensation, and fix the character and method of such compensation, he may choose to provide for any such trustee or other officer whom the terms of his foundation may characterize, and upon whom specific or general duties shall be imposed.

Gift, how recorded.

Sec. 7. Any such gift or grant may be executed, acknowledged, and recorded in the manner now or hereafter provided by law for the execution, acknowledgment, and recording of grants of real property.

Time of commencing suit.

Sec. 8. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect said gift, grant, or conveyance or to affect the title to the property conveyed, or the right to the possession or to the rents, issues, and profits thereof, unless the same be commenced within two years after the date of the filing of such grant for record.

Founder may bequeath to State of California.

Sec. 9. Any person, being the founder, making a gift or grant for any of the purposes mentioned in this act, may, at any time thereafter, by last will or testament, devise or bequeath to the State of California all or any of the property, real, and personal, mentioned in such gift or grant, or in any such supplemental thereto, and such devise or bequest shall take effect in case, from any cause whatever, the gift or grant shall be annulled or set aside, or the trusts therein declared shall for any reason fail. Such devise or bequest is hereby suffered to be made by way of assurance that the intentions of the grantor shall be carried out, and in the faith that the State, in case it shall succeed to the property, or any part thereof, will, to the extent and value of such property, carry out, in respect to the objects and purposes of any such grant, all the wishes and intentions of the grantor.

Liberal construction of provisions.

Sec. 10. The provisions of this act shall be liberally construed, with a view to effect its objects and purposes, and the singular number in the construction thereof shall be deemed to in-

clude the plural, and the plural number shall be deemed to include the singular.

Universities, colleges, schools, etc.

Sec. 11. Nothing in this act shall repeal, modify, change, or have any effect upon any of the provisions of an act of the legislature of the State of California entitled "An Act to advance learning, the arts and sciences, and to promote the public welfare by providing for the conveyance, holding, and protection of property, and the creation of trusts for the funding, endowment, erection, and maintenance, within this State, of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art," approved March ninth, eighteen hundred and eighty-five.

Sec. 12. This act shall take effect immediately.

An Act to advance learning, the arts and sciences, and to promote the public welfare, by providing for the conveyance, holding, and protection of property, and the creation of trusts for the founding, endowment, erection, and maintenance within this State of universities, colleges, schools, seminaries of learning, mechanical institutes, museums, and galleries of art.

[Approved March 9, 1885; 1885, 49.]

Construction of act.

Section 1. The provisions of this act shall be liberally construed with a view to effect its objects and promote its purposes, and in the construction thereof the singular number shall be deemed to include the plural, and the plural shall be deemed to include the singular number, and the masculine gender shall be deemed to include the feminine.

Grant.

Sec. 2. Any person desiring in his lifetime to promote the public welfare by founding, endowing, and maintaining within this State a university, college, school, seminary of learning, mechanical institute, museum, botanic garden, public park, or gallery of art, or any or all thereof, may, to the end and for such purpose, by grant in writing convey to a trustee, or any number of trustees,

named in such grant (and to their successors), any property, real or personal, belonging to such person and situated or being within this State; provided, that if such person be married, and the property be community property, then both husband and wife must join in such grant. [Amendment approved March 31, 1891; Stats. 1891, 454.]

Requisites.

Sec. 3. The person making such grant may therein designate:

1. The nature, object, and purposes of the institution or institutions to be founded, endowed, and maintained;

2. The name by which it or they shall be known;

3. The powers and duties of the trustees, and the manner in which they shall account, and to whom, if accounting be required; but such powers and duties shall not be held to be exclusive of other powers and duties which may be necessary to enable such trustees to fully carry out the objects of such grant;

4. The mode and manner, and by whom, the successors to the trustee or trustees named in the grant are to be appointed;

5. Such rules and regulations for the management of the property conveyed as the grantor may elect to prescribe; but such rules shall, unless the grantor otherwise prescribe, be deemed advisory only, and shall not preclude such trustees from making such changes as new conditions may from time to time require;

6. The place or places where and the time when the buildings necessary and proper for the institution or institutions shall be erected, and the character and extent thereof. The person making such grant may therein provide for all other things necessary and proper to carry out the purposes thereof, and especially may such person provide for the trades and professions which shall be taught in such institutions, and the terms upon which deserving scholars of the public and private schools of the various counties of this State may be admitted to all the privileges of such institutions, as a reward for meritorious conduct and good scholarship; and also for maintaining free scholarships for children of persons who have ren-

dered service to or who have died in the service of this State; and also for maintaining free scholarships for children of mechanics, tradesmen, and laborers, who have died without leaving means sufficient to give such children a practical education, fitting them for the useful trades or arts; and also the terms and conditions upon which students in the public and private schools, and other deserving persons, may, without cost to themselves, attend the lectures of any university established; and also the terms and conditions upon which the museums, and art galleries, and conservatories of music, connected with any such institution, shall be open to all deserving persons without charge, and without their becoming students of the institution.

Actions by trustees.

Sec. 4. The trustee or trustees named in such grant, and their successors, may, in the name of the institution or institutions, as designated in such grant, sue and defend, in relation to the trust property, and in relation to all matters affecting the institution or institutions endowed and established by such grant.

Grantor as trustee.

Sec. 5. The person making such grant, by a provision therein, may elect, in relation to the property conveyed, and in relation to the erection, maintenance, and management of such institution or institutions, to perform, during his life, all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee or trustees named. If the person making such grant, and making the election aforesaid, be a married person, such person may further provide that if the wife of such person survive him, then such wife, during her life, may, in relation to the property conveyed, and in relation to the erection, maintenance, and management of such institution or institutions, perform all the duties and exercise all the powers which, by the terms of the grant, are enjoined upon and vested in the trustee or trustees therein named; and in all such cases the powers and duties conferred and imposed by such grant upon the trustee or trustees therein named shall be exercised and performed

by the person making such grant, or by his wife, during his or her life, as the case may be; provided, however, that upon the death of such person, or his surviving wife, as the case may be, such powers and duties shall devolve upon and shall be exercised by the trustees named in the grant, and their successors.

#### Amending grant.

Sec. 6. The person making such grant may therein reserve the right to alter, amend, or modify the terms and conditions thereof, and the trusts therein created, in respect to any of the matters mentioned or referred to in subdivisions one to six, inclusive, of section two hereof; and may also therein reserve the right, during the life of such person or persons, of absolute dominion over the personal property conveyed, and also over the rents, issues, and profits of the real property conveyed, without liability to account therefor in any manner whatever, and without any liability over against the estate of such person; and if any such person be married, such person may, in said grant, further provide that if his wife survive him, then such wife, during her life, may have the same absolute dominion over such personal property, and such rents, issues, and profits, without liability to account therefor in any manner whatever, and without liability over against the estate of either of the spouses.

#### Custody of minors.

Sec. 7. The person making such grant may therein provide that the trustees named in the grant, and their successors, may, in the name of the institution or institutions, become the custodian of the person of minors, and when any such provision is made in a grant, the trustees and their successors may take such custody and control in the manner and for the time and in accordance with the provisions of sections two hundred and sixty-four to two hundred and seventy-six, inclusive, of the Civil Code of the state of California.

#### Execution of grant.

Sec. 8. Any such grant may be executed, acknowledged, and recorded in the same manner as is now provided by law for the execution, acknowledgment, and recording of grants of real property.

### Annulling grant.

Sec. 9. No suit, action, or proceeding shall be commenced or maintained by any person to set aside, annul, or affect said conveyance, or to affect the title to the property conveyed, or the right to the possession, or to the rents, issues, and profits thereof, unless the same be commenced within two years after the date of filing such grant for record; nor shall any defense be made to any suit, action, or proceedings commenced by the trustee or trustees named in said grant, or their successors, privies, or persons holding under them, which defense involves the legality of said grant, or affects the title to the property thereby conveyed, or the right to the possession, or the rents, issues, and profits thereof, unless such defense is made in a suit, action, or proceeding commenced within two years after such grant shall have been filed for record.

### Exemption from execution.

Sec. 10. The property conveyed by such grant shall not, after a lapse of two years from the date of the filing for record of the grant, be subject to forced sale, under execution, or judicial proceedings of any kind, against the grantor or his privies, unless the action under which the execution shall be issued, or the proceedings under which the sale shall be ordered, shall have been commenced within two years after such grant shall have been filed for record. Nor shall such property be subject to execution or forced sale under any judgment obtained in any proceedings instituted within said two years, if there be other property of the grantor, subject to execution or forced sale sufficient to satisfy such judgment; provided, nothing in this section contained shall be construed to affect mechanics' or laborers' liens.

### Bequest to state.

Sec. 11. Any person or persons making any such grant may, at any time thereafter, by last will or testament, devise and bequeath to the state of California all or any of the property, real and personal, mentioned in such grant, or in any supplemental grant, and such devise or bequest shall only take effect in case, from any cause whatever, the grant shall be annulled or set aside, or the



trusts therein declared shall for any reason fail. Such devise and bequest is hereby permitted to be made by way of assurance that the wishes of the grantor or grantors shall be carried out, and in the faith that the state, in case it succeeds to the property, or any part thereof, will, to the extent and value of such property, carry out, in respect to the objects and purposes of any such grant, all the wishes and intentions of the grantor or grantors; provided, that no wish, direction, act, or condition expressed, made, or given by any grantor or grantors, under or by virtue of this act, as to religious instruction to be given in such school, college, seminary, mechanical institute, museum, or gallery of art, or in respect to the exercise of religious belief, on the part of any pupil or pupils of such school or institution of learning, shall be binding upon the state; nor shall the state enforce, or permit to be enforced or carried out, any such wish, direction, act, or condition.

Sec. 12. This act shall be in force from and after its passage.

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## TITLE 76.

### EL DORADO COUNTY.

A reference to local acts relating to El Dorado county can be found in Deering's Annotated Penal Code, pp. 485-487.

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## TITLE 77.

### ELECTIONS.

Acts relating to: See Penal Code, Appendix, title, Elections, p. 543; Political Code, Appendix, title, Elections, p. 961.

Gen. Laws—27.

## TITLE 78.

## EMIGRATION.

An act to promote emigration from the state of California.

[Approved March 26, 1880; 1880, 15 (Ban. ed. 50).]

To promote emigration from the state.

Section 1. It shall be unlawful for the owners, officers, agents, or employees of any steamship company, sailing vessel, or railroad company, or firm or corporation, that may be engaged in this state in the transportation of passengers to and from any foreign port, to withhold or refuse any person or persons the right to purchase a passage ticket or tickets to any foreign country for the reason that he or they have not presented a certificate, card, or other document whatsoever showing that such person has paid in full, or in part, any or all dues, debts, or demands, or otherwise, or any sum whatsoever, to any society, company, corporation, association, or individual, or firm; and any person or corporation who shall violate the provisions of this section, or in pursuance of any agreement, oral or written, refuse to sell a passage ticket to any person to any foreign country, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred nor more than five hundred dollars; provided, that nothing in this section shall be construed in any manner to apply to any passport or other document required by law to be presented, having the signature or seal of any foreign consul resident within this state.

Sec. 2. This act shall take effect on and after its passage.

## TITLE 79.

## ESTATES OF DECEASED PERSONS.

Acts relating to: See Code of Civil Procedure, Appendix, title, Estates of Deceased Persons, p. 814.

## TITLE 80.

## ESTRAYS.

An act relating to estrays, and repealing all other acts and parts of acts now in force relating to estrays.

[Stat. approved March 27, 1897; Stats. 1897, chap. cxxxvii.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. Any person finding at any time any estray domestic animal or animals upon his premises or highways adjacent thereto may take up the same, and no person shall remove them from the possession of the taker-up, or from the possession of the officer to whom they may have been delivered, except as hereinafter provided.

Sec. 2. Any person taking up an estray animal or animals, shall confine the same in a secure place, and within five days file with the county recorder of the county in which such estray is found, a notice containing a description of the animal or animals taken up, with the marks and brands, if they have any, together with the probable value of each animal, and a statement of the place where the taker-up found, and where he has confined the same. The county recorder shall receive for filing said notice the sum of fifty cents.

Sec. 3. At any time within thirty days from the date of the filing of the notice specified in section two of this act, any person claiming such estray animal or animals, shall appear before a justice of the peace of the township wherein said animal or animals were found, and make claim for such estray animal or animals. The justice shall enter such claim in his docket, and shall notify the taker-up; and within five days after the making of such claim, the justice shall hear the claim and such evidence as may be produced by either party, and shall determine the case according to the rights of the parties, both with reference to the ownership and possession of the estray animal or

animals, and the compensation to be paid to the taker-up and the cost of the proceedings. Such compensation shall be estimated as follows:

1. The total amount paid by the taker-up to the county recorder.

2. The sum of fifteen cents per day for the keeping and care of each horse, mule, jenny, ass, cow, bull, ox, steer, or calf.

3. The sum of five cents per day for the care of each sheep, goat, hog, or other animal not hereinbefore specified.

The sum of one dollar shall be paid to the justice of the peace, by the party or parties making such claim, for each claim made and entered by him as aforesaid, which shall be in full compensation for all services rendered by him in connection with each claim so made.

Sec. 4. If the owner does not appear and claim the animal or animals taken up within thirty days after the filing of the notice hereinbefore mentioned, then the taker-up shall, in writing, notify a constable of the township in which said animal or animals are held, which notice shall specify that he has complied with all of the provisions of this act, and that the owner of said animal or animals has failed to appear and claim the same as herein provided, and that such animal or animals are held by him subject to sale. Said constable shall immediately proceed to sell such animal or animals at public sale, in conformity with the law concerning sales on execution, and shall be entitled to the same fees as are provided by law for sales under execution.

Sec. 5. Out of the money realized for the sale of estrays, the constable shall first retain his fees; he shall then pay to the taker-up his costs and expenses estimated as provided in section three of this act, or so much thereof as the funds in his hands will permit, and the surplus, if any, he shall pay to the county treasurer, to be held by him for the owner of the stray or estrays, for which it was received in payment. If any person or persons shall, within one year thereafter, prove to the satisfaction of the board of supervisors of the county in which the stray or estrays were sold, that he or they are entitled to the sum so held by the county treasurer, or any part thereof, the

said board of supervisors shall order such sum to be paid over to such person or persons; and if not so proven within one year, then the same shall become a part of the common school fund of said county.

Sec. 6. All sales made by any constable, under the provisions of this act, shall convey a good and valid title to the purchaser, and the owner of the estray so sold shall thereafter be barred from all right to recover the same.

Sec. 7. The taker-up of an estray animal or animals shall use reasonable care to preserve the same from injury, but if any estray animal or animals die or escape from the possession of the taker-up at any time before the expiration of the time specified in section three of this act, the taker-up shall not be held liable in any manner on account of such animal.

Sec. 8. Nothing in this act shall affect the laws or regulations in force or which may be in force regarding estrays, the poundkeeper or other pound officer within the limits of any city or town where laws regarding estrays are in force.

Sec. 9. All other acts and parts of acts relating to estrays now in force, are hereby repealed.

Sec. 10. This act shall take effect from and after its passage.

A reference to the former acts relating to Estrays can be found in Deering's Annotated Penal Code, p. 488, et seq.

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## TITLE 81.

### EXPLOSIVES.

An act to protect life and property against the careless and malicious use or handling of dynamite and other explosives.

[Approved March 12, 1887; 1887, 110.]

Keep record of sales.

Section 1. It is the duty of each and every person, contractor, firm, association, joint stock com-

pany, and corporation, manufacturing, storing, selling, transferring, disposing of, or in any manner dealing in or with, or using or giving out, nitro-glycerine, dynamite, vigorite, hercules powder, giant powder, or other high explosive, by whatever name known, to keep at all times an accurate journal, or book of record, in which must be entered, from time to time, as they are made, each and every sale, delivery, transfer, gift, or other disposition made by such person, firm, association, joint stock company, or corporation, in the course of business or otherwise, of any quantity of such explosive substance.

What record must show.

Sec. 2. Such journal or record book must show, in a legible handwriting to be entered therein at the time, a complete history of each transaction, stating the name and quantity of the explosive sold, delivered, given away, transferred, or otherwise disposed of; the name, place of residence, or business of the purchaser or transferee; the name of the individual to whom delivered, with his or her address, with a description of such individual sufficient to provide for identification.

Records subject to examination of peace officers.

Sec. 3. Such journal or record book must be kept, by the person, firm, association, joint stock company, or corporation so selling, delivering, or otherwise disposing of such explosive substance or substances, in his or their principal office or place of business, at all times subject to the inspection and examination of the peace officers or other police authorities of the state, county, city and county, or municipality where the same is situated, on proper demand made therefor; any failure or neglect to keep such book, or to make the proper entries therein at the time of the transaction, as herein provided, or to exhibit the same to the peace officers or other police authorities on demand, shall be deemed a misdemeanor, and punished accordingly.

Forfeiture in addition to punishment.

Sec. 4. In addition to such punishment, and as a cumulative penalty, such person, firm, association, joint stock company, or corporation so offending, shall forfeit, for each offense, the sum of



two hundred and fifty dollars, to be recovered in any court of competent jurisdiction, by action at law. The party so instituting such actions shall not be entitled to dismiss the same without consent of the court before which the suit has been instituted. Nor shall any judgment recovered be settled, satisfied, or discharged, save by order of such court, after full payment into court, and all moneys so collected shall be paid to the party bringing the suit.

Prohibiting reckless possession of explosives.

Sec. 5. Any person who, in the public street or any highway or any county, city and county, city, or town or city, or at, in, or near to any theater, hall, public or private, school, college, church, hotel, or other public building, or at, in, or near to any private habitation or in, on board of, or near any railway passenger train, or car or train, or cable road, or car of the same, or steam or other vessel, engaged in carrying passengers, or ferryboat, or other public place where human beings ordinarily pass and repass, shall recklessly or maliciously have in his or her possession any dynamite, nitro-glycerine, vigorite, hercules powder, giant powder, or other high explosive, or who shall recklessly or maliciously by use of such means intimidate, terrify, or endanger any human being, is guilty of a felony, and on conviction shall be punished accordingly.

Defining reckless possession.

Sec. 6. Any person not regularly engaged in the manufacture, sale, transportation, or legitimate use in blasting operations, or in the arts, of such substances as are named in this act, shall be presumed (*prima facie*) to be guilty of a reckless and malicious possession thereof, within the meaning of the foregoing section, if any such substance is found upon him, or in his possession, in any of the places, or under any of the circumstances specified in the preceding section.

Punishment for unlawful possession.

Sec. 7. No person may knowingly keep or have in his or her possession any dynamite, vigorite, nitro-glycerine, giant powder, hercules powder, or other high explosive, except in the regular course of business carried on by such person, either as a

manufacturer thereof or merchant dealing in the same, or for use in legitimate blasting operations, or in the arts, or while engaged in transporting the same for others, or as the agent or employee of others engaged in the course of such business or operations. Any other possession of any such explosive substances as are named in this act is unlawful; and the person so unlawfully possessing it shall be punished by imprisonment in the state prison not exceeding five years, or by fine not exceeding five thousand dollars, or by both such fine and imprisonment.

#### Malicious deposit.

Sec. 8. Any person who maliciously deposits or explodes, or who attempts to explode, at, in, under, or near any building, vessel, or boat, railroad, tramroad, or cable road, or any train or car, or any depot, stable, car house, theater, school house, church, dwelling house, or other place where human beings usually inhabit, assemble, frequent, or pass and repass, any dynamite, nitro-glycerine, vigorite, giant or hercules powder, gunpowder, or other chemical compound, or other explosive, with the intent to injure or destroy such building, vessel, boat, or other structure, or with the intent to injure, intimidate, or terrify any human being, or by means of which any human being is injured or endangered, is guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not less than one year.

#### Transportation of high explosives.

Sec. 9. Any person, firm, or corporation, who shall take, carry, or transport, or cause to be taken, carried, or transported, any dynamite, vigorite, nitro-glycerine, hercules or giant powder, or other high explosive, into the limits of, or through, or across any incorporated city or town of this state, or into, through, or across any harbor for shipping, in any manner, condition, or quantity, or otherwise, in violation of the laws or ordinances of such city or town, or of the laws or regulations governing such harbor, shall, in addition to the penalties provided or imposed by such laws, ordinances, or regulations, forfeit to the state of California all such explosive substances, as well as the cases inclosing the same. Such forfeiture may be

sued for by any citizen of the state, for himself and the state; and the goods or property, when so forfeited and recovered by judgment of the court, shall be sold, and the proceeds divided, the citizen so suing taking one-half to himself for his own benefit, and paying the other half into the state treasury. Such action may be maintained in any court of competent jurisdiction; provided, that the state shall never be liable to any cost or expense for any such suit or proceeding.

Police officer may sue for forfeitures.

Sec. 10. Any of the forfeitures provided for in this act may be taken advantage of, and sued for and recovered, by any peace officer or policeman, member of the police force of any city, city and county, or town where the same arises, for his own benefit, notwithstanding any law, ordinance, or rule to the contrary.

Sec. 11. This act shall take effect and be in force from and after its passage.

For other acts relating to: See Penal Code, Appendix, title, Explosives, p. 546.

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## TITLE 82.

### FEATHER RIVER.

An act to declare the bridge across Feather river, extending from Fifth street, at the city of Marysville, in the county of Yuba, to the opposite bank of the said river, a free bridge.

[Approved March 31, 1891; Stats. 1891, p. 263.]

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## TITLE 83.

### FEEBLE-MINDED CHILDREN.

Consult the following acts:

An act to establish the "California Home for the care and training of feeble-minded children," and provide for the maintenance of the same.

[Approved March 18, 1885; 1885, 198.]

An act to provide a permanent site for the California home for the care and training of feeble-minded children, to erect suitable buildings thereon, and making an appropriation therefor.

[Approved March 6, 1889; 1889, 69.]

This act appropriated \$175,000 for the purpose indicated.

An act to provide for the government and management of the California home for the care and training of feeble-minded children.

[Approved March 9, 1887; 1887, 69.]

This act was amended March 14, 1889, Stats. 1889, p. 155.

An act to provide a system of water supply and sewerage, and to improve the grounds of the California home for the care and training of feeble-minded children, and making an appropriation therefor.

[Approved March 14, 1889; 1889, 175.]

The act appropriated fifteen thousand dollars for the purpose indicated.

An act to provide for the erection of additional buildings for the California home for the care and training of feeble-minded children, to complete buildings now being erected, and to appropriate money therefor.

[Approved April 6, 1891; Stats. 1891, p. 485.]

One hundred and twenty-five thousand dollars was appropriated for the purpose indicated.

An act to provide for the erection of an additional wing to the main building of the California home for the care and training of feeble-minded children, at Glen Ellen, Sonoma county, California, for the female department of said institution, to furnish the same, and to improve the grounds, and to appropriate money therefor.

[Approved February 27, 1893; Stats. 1893, p. 53.]

Ninety-eight thousand dollars was appropriated for the purpose indicated.

An act to authorize and direct the sale of the site and buildings of the California home for the care and training of feeble-minded children, in Santa Clara county.

[Approved March 19, 1891; Stats. 1891, p. 133.]

An act granting to the board of supervisors of Sonoma county, California, right of way through the lands of the California home for the care and training of feeble-minded children, to enable said board of supervisors to change the location of the public highway now traversing said lands.

[Approved March 23, 1893; Stats. 1893, p. 277.]

An act to authorize, empower, and direct the California home for the care and training of feeble-minded children to admit idiots, epileptics and mentally enfeebled paralytics into said institution; to provide for the support of all inmates therein, and to repeal all acts or parts of acts in conflict with the provisions of this act.

[Stat. approved March 31, 1897; Stats. 1897, chap. clxxxviii.]

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## TITLE 84.

### FEEES.

An act to establish the fees of county, township and other officers, and of jurors and witnesses in this state.

[Stat. approved March 28, 1895; Stats. 1895, chap. ccvii.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. The following county, township and other officers shall charge and collect the following fees:

## COUNTY CLERK.

On the commencement of any action or proceeding in the superior court, except probate proceedings, or on an appeal thereto, to be paid by the party commencing such action or proceeding, or taking such appeal, five dollars.

On the filing of a petition for letters of administration, testamentary or guardianship, five dollars, to be paid by the petitioner; provided, that at the time of filing the inventory and appraisement in any such proceeding there shall be an additional deposit of one dollar for each additional thousand dollars of the appraised valuation, in excess of three thousand dollars.

On filing the petition to contest any will or codicil, three dollars.

On the appearance of any defendant, or any number of defendants answering jointly, to be paid upon filing the first paper in the action by him or them, two dollars.

On placing any action, excepting a probate proceeding or default case, on the calendar for trial or hearing, to be paid by the party at whose request such action or proceeding is so placed, two dollars.

For every additional defendant appearing separately, one dollar.

The foregoing fees shall be in full for all services rendered by such clerk in the cause, to and including the making up of the judgment roll.

On the filing of any notice of motion to move for a new trial of any civil action or proceeding, the party filing same shall pay to the clerk, in full for all services to be rendered in connection with said motion, except as hereinafter in this section provided, two dollars.

For issuing an execution or order of sale in any action, one dollar.

In all proceedings begun or acts performed prior to this act becoming a law, such fees and charges as were provided by law at the time such proceedings were begun or acts performed.

The clerk shall also charge and collect the following fees and compensation not above provided for:

For any copy of any record, proceeding, or pa-



per on file in the office of the clerk relating to any civil action pending in said court, when such copy is made by him, per folio, ten cents.

For each certificate of the clerk, under the seal of the court, twenty-five cents.

For filing each claim in probate or insolvency proceedings, fifteen cents.

No fees shall be allowed or charged by the clerk for services rendered in any criminal case.

For services rendered by the clerk, not in connection with civil actions or proceedings in court, he shall charge and collect, for the benefit of the county, the following fees:

For issuing marriage license, one half to be paid to the county recorder, two dollars.

For filing and indexing articles of incorporation, one dollar.

For filing and indexing certificates of co-partnership, one dollar.

For filing and indexing all papers to be kept by him, other than papers filed in actions or proceedings in court, and official bonds and certificates of appointment, each, twenty-five cents.

For issuing any license required by law, other than marriage licenses, one dollar.

For examining and certifying to a copy of any paper, record, or proceeding prepared by another, and presented for his certificate, fifty cents, and one cent per folio for comparing the said copy with the original.

For making satisfaction of or credit on judgment, twenty-five cents.

For receiving and filing remittitur from supreme court, fifty cents.

For administering each oath, without certificate, except in a pending action or proceeding, ten cents.

For taking any affidavit, except in criminal cases, twenty-five cents.

For taking and approving each undertaking, and the justification thereof, except in criminal cases, fifty cents.

For searching records or files, for each year, fifty cents.

For taking acknowledgment of any deed or other instrument, including the certificate, fifty cents.

For filing notices of appeal and appeal bonds, each, twenty-five cents.

### SHERIFF.

For serving any process, writ, order or paper, except as hereinafter provided, required by law to be served by the sheriff, fifty cents.

For serving a writ of attachment, execution or order for the delivery of personal property, one dollar.

For taking any bond or undertaking, fifty cents.

For serving an attachment or execution on any ship, boat or vessel, three dollars.

For keeping and caring for property under attachment or execution, such sum as the court may fix; provided, that no greater sum than two dollars per day shall be allowed to a keeper when necessarily employed.

For a copy of any writ, process or paper actually made by him, when required or demanded according to law, per folio, ten cents; provided, that when correct copies are furnished to him for use, no charge shall be made for such copies.

For advertising sale of property and posting notice, exclusive of cost of publication, or furnishing notice for publication, each, fifty cents.

For publication of notice in newspaper, the reasonable cost of publication, subject to the approval of the court.

For serving writ of possession or restitution, putting a person in possession of the premises and removing the occupant, one dollar and fifty cents.

For subpoenaing witness, including copy of subpoena, each, twenty-five cents.

For summoning trial jury of twelve or less, two dollars; for each additional juror, ten cents.

For traveling in the service of any paper required by law to be served, for each mile actually and necessarily traveled, one way only, fifteen cents, when such travel can be made by rail; in other cases, twenty-five cents. No constructive mileage to be allowed.

For collecting money on execution, with or without levy, one per cent. on the first thousand dollars or less, and one-half of one per cent. on all sums over one thousand dollars.

For executing and delivering sheriff's deed, one dollar and fifty cents.

For executing and delivering certificate of sale, fifty cents.

For transporting prisoners to the county jail, the actual cost of such transportation.

For executing and delivering any other instrument, ten cents per folio.

## RECORDER.

For recording every instrument, paper or notice required by law to be recorded, per folio, ten cents.

For indexing every instrument, paper or notice, for each name, ten cents.

For filing every instrument for record and making the necessary entries thereon, twenty cents.

For each certificate under seal, twenty-five cents.

For every entry of discharge, credit or release on the margin of record, and indexing same, twenty-five cents.

For searching the records of his office, for each year, fifty cents.

For abstract of title, for each conveyance or encumbrance, twenty-five cents.

For recording each map or plat where the same is copied in a book of record, for each course, ten cents.

For recording each map or plat where the same is not copied in a book of record, fifty cents.

For figures or letters on maps or plats, per folio, ten cents; provided, that the fees for recording any map shall not exceed fifty dollars.

For taking acknowledgment of any instrument, fifty cents.

For recording marriage license and certificate, to be paid by the county clerk, one dollar.

For recording transcript and all services in estray cases, one dollar.

For recording each mark or brand, fifty cents.

For administering each oath or affirmation and certifying the same, twenty-five cents.

For filing, indexing and keeping each paper not required by law to be recorded, twenty-five cents.

The clerk, sheriff and recorder shall account for

all fees in this section provided for, and the clerk, sheriff and recorder, unless otherwise provided by law, shall pay the same to the county treasurer on the first Monday of the month following their collection, as provided in this act.

## CONSTABLES AND MARSHALS.

For serving summons and complaint, for each defendant served, fifty cents.

For each copy of summons for service, when made by him, twenty-five cents.

For levying writ of attachment or execution, or executing order of arrest or for the delivery of personal property, one dollar.

For serving writ of attachment or execution on any ship, boat or vessel, three dollars.

For keeping personal property, such sum as the court may order; but no more than two dollars per day shall be allowed for a keeper when necessarily employed.

For taking bond or undertaking, fifty cents.

For copies of writs and other papers, except summons, complaint and subpoenas, per folio, ten cents; provided, that when correct copies are furnished him for use, no charge shall be made for such copies.

For serving any writ, notice or order, except summons, complaint or subpoenas, for each person served, fifty cents.

For writing and posting each notice of sale of property, twenty-five cents.

For furnishing notice for publication, twenty-five cents.

For serving subpoenas, each witness, including copy, twenty-five cents.

For collecting money on execution, one and one half per cent.

For executing and delivering certificate of sale, fifty cents.

For executing and delivering constable's deed, one dollar and fifty cents.

For each mile actually traveled within his township in the service of any writ, order, or paper, except a warrant of arrest, in going only, per mile, twenty-five cents.

For traveling outside of his township to serve such writ, order, or paper, in going only, fifteen

cents; provided, that a constable shall not be required to travel outside of his township to serve any civil process, order, or paper. No constructive mileage allowed.

For each mile necessarily traveled within his county in executing a warrant of arrest, both in going and returning from place of arrest, fifteen cents.

For each mile traveled out of his county, both going and returning from place of arrest, five cents; provided, that no mileage shall be charged for a warrant of arrest or criminal process served outside of his township, except such service be approved in writing by the district attorney of the county; and provided further, that for traveling in the performance of two or more official services at the same time, including the service of civil process or criminal warrants, or transportation of persons charged or convicted of a criminal offense, but one mileage shall be charged; provided, that in criminal cases he shall not receive more than one hundred dollars in any one month, and not more than one thousand dollars in any one year.

For executing a search warrant, such fees and mileage as may be allowed for executing warrant of arrest.

For arresting prisoner and bringing him into court, one dollar.

For summoning a jury, two dollars, including mileage.

For transporting prisoners to the county jail, the actual cost of such transportation.

Provided, that the board of supervisors may reject all bills presented to the county by justices of the peace and constables for fees in criminal cases in all cases of proceedings in which the district attorney has not, in writing, approved the issuance of the warrant of arrest.

County officers must, and township officers may, demand the payment of all fees in civil cases, in advance.

## JUSTICES OF THE PEACE.

Justices of the peace may, for their own use, collect the following fees, and no others:

Each justice of the peace shall be allowed, in

a civil action before him, for all services to be performed by him before trial, two dollars; and for the trial and all proceedings subsequent thereto, including all affidavits, swearing witnesses and jury, and the entry of judgment and issue of execution thereon, three dollars; and in all cases where judgment is rendered by default or confession, for all services, including execution and satisfaction of judgment, two dollars.

For all services in a criminal action or proceeding, whether on examination or trial, three dollars; provided, however, that no more than the sum of seventy-five dollars in any one month shall be allowed out of the county treasury, in misdemeanor cases, to any one justice.

For taking bail after commitment by another magistrate, fifty cents.

For certificate and transmitting transcript and papers on appeal, one dollar.

For copies of papers on docket, per folio, ten cents.

For issuing a search warrant, to be paid by the party demanding the same, fifty cents.

For celebrating a marriage, and returning a certificate thereof to the county recorder, three dollars.

For taking an acknowledgment of any instrument, for the first name, fifty cents; for each additional name, twenty-five cents.

For taking depositions, per folio, fifteen cents.

For administering an oath, and certifying the same, twenty-five cents.

For issuing a commission to take testimony, fifty cents.

For all services connected with the posting of estrays, one dollar.

In cases before the justice of the peace, when the venue shall be changed, the justice before whom the action shall be brought, for all services rendered, including the making up and transmission of the transcript and papers, shall receive one dollar; and the justice before whom the trial shall take place shall receive the same fees as if the action had been commenced before him.

For performing the duties of coroner, when the coroner fails to act, the same fees and mileage as are allowed the coroner in like cases.

For issuing each process, writ, order, or paper



required by law to be issued not otherwise herein provided for, twenty-five cents.

For administering oath or affirmation not otherwise herein provided for, ten cents.

For each certificate or affidavit not otherwise herein provided for, twenty-five cents.

For taking and approving bond or undertaking, including the justification of sureties, fifty cents.

19. Jurors' and witness' fees shall be as follows:

### JURORS' FEES.

For attending as a grand juror or juror in the superior court, for each day's attendance, per day, two dollars.

For attending justice's court, for each juror sworn to try the cause, per day, in civil cases only, two dollars.

For each mile actually traveled in attending court, as a juror, except in criminal cases in justice's court, for which no allowance shall be made, in going only, per mile, fifteen cents.

### WITNESS' FEES.

For each day's actual attendance, when legally required to attend upon the superior court, per day, two dollars in civil cases, and one dollar and fifty cents in criminal cases.

Mileage actually traveled, one way only, per mile, ten cents; provided, however, that in criminal cases, such per diem and mileage shall only be allowed upon a showing to the court, by the witness, that the same are necessary for the expenses of the witness in attending, and the court shall determine the necessity for the same, and may disallow any fees to a witness unnecessarily subpoenaed.

For each day's attendance upon justice's court, in civil cases only, when legally required to attend, per day, one dollar.

For each mile actually traveled, in civil cases only, in justice's court, in going only, ten cents.

Witnesses in civil cases may demand the payment of their mileage and fees for one day in advance, and when so demanded shall not be compelled to attend until the same shall have been paid.

## CORONER.

Coroners may, for their own use, collect the following fees, and no others:

For general services in holding an inquest, ten dollars.

For each witness subpoenaed, twenty-five cents.

For each mile necessarily traveled in going to the place of the inquest, twenty-five cents.

For directing or attending the interment of each body upon which an inquest has been held, two dollars; which fees shall be all that he shall be entitled to charge.

When acting as or in the place of the sheriff, the same fees as are allowed the sheriff for like services.

## PUBLIC ADMINISTRATOR.

The public administrator shall charge and collect such fees as are now or may hereafter be allowed by law.

## COUNTY SURVEYOR.

The county surveyor shall charge and collect such fees as are now or may hereafter be allowed by law.

Sec. 2. No fees or other compensation shall be paid for certificate of declaration to become a citizen of the United States, and for making a record thereof, or for issuing a certificate of citizenship to become a citizen of the United States, or for making a record thereof; and no fees or other compensation shall be paid for filing the statement and affidavit of a committee or candidate voted for at any public election held within the state; and this section shall apply to all the counties in this state.

Sec. 3. All acts or portions of acts inconsistent herewith are hereby repealed.

Sec. 4. This act shall take effect immediately.

An act relating to pension matters and claims against counties.

[Stat. approved March 3, 1897; Stats. 1897, chap. lxi.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Section 1. No fees or other compensation shall be collected for services rendered in an affidavit or application relating to the securing of a pension, or for the payment of a pension voucher, or any matters relating thereto, nor filing, nor swearing to any claim or demand against any county in this state.

Sec. 2. This act shall take effect from and after its passage.

An act to provide and regulate the manner of receiving and paying fees, commissions, percentages, and other compensation for official services in cities and cities and counties having a population of over one hundred thousand inhabitants, and prescribing the duties of officers with reference thereto.

[Approved March 11, 1893; Stats. 1893, p. 127.]

Section 1. The salary of every officer of every city or city and county of this state having a population of over one hundred thousand inhabitants, as such salary now is or hereafter shall be fixed by law, shall be in full payment and compensation for all services performed by such officer in any official capacity whatever; provided, that in case any official is now or shall hereafter be allowed by law, as compensation for his official services, a salary of less than one thousand dollars per annum and the fees of his office, such compensation, viz., the salary of less than one thousand dollars per annum and the fees of his office, shall be in full payment and compensation for all services performed by such officer.

Sec. 2. Such salaried officers shall not receive or accept any fee, payment, or compensation whatever, directly or indirectly, for any services

performed by them, in their official capacity, nor any fee, payment, or compensation for any official service performed by any of their deputies, clerks, or employees, whether performed during or after official business hours, nor shall any deputy, clerk, or employee of such officer receive or accept any fee, compensation, or payment, other than their salaries as now or hereafter fixed by law, for any work or service performed by them of any official nature, or under color of office, whether performed during or after official business hours.

Sec. 3. In all such cities or cities and counties of this state, every fee, commission, percentage, allowance, or other compensation whatever authorized by law to be charged, received or collected by any officer thereof for any official service, except the salary allowed by law, payable from the treasury of such city or city and county, must be paid, by the person for whom such service is performed to the treasurer of such city or city and county, in the manner herein provided.

Sec. 4. It shall be the duty of every officer of such cities or cities and counties authorized by law to charge, receive, or collect any fee, commission, percentage, allowance, or compensation whatever for the performance of any official service or duty of any kind or nature, or rendered in any official capacity, or by reason of any official duty or employment whatsoever, to deliver to the person requiring such service or duty a certificate, in writing, signed by such officer, which shall certify the nature of the official service to be performed and the amount of the fee, commission, percentage, allowance, or compensation allowed by law therefor. The person receiving such certificate shall deliver the same to the treasurer of such city or city and county, and shall pay to such treasurer the amount named in such certificate, and thereupon such treasurer shall deliver to such person a receipt for the money so paid, which shall show the amount of money received, the day and hour when paid, the name of the person paying the same, the nature of the service to be performed, and the name and official designation of the person by whom the service is to be performed; and like entries shall be made upon the stub of such

receipt, which shall be kept by such treasurer. Upon the delivery of such treasurer's receipt to the officer therein designated, such officer shall deliver to such person a certificate containing the same items as appear in such receipt, and acknowledging the delivery to him of such receipt, and the day and hour the same was delivered to him, and such officer shall thereupon perform the service or duty in such receipt described, as required by law. The treasurer shall place all such moneys so received by him to a fund, to be designated the "Unapportioned Fee Fund," which is hereby created, and shall keep such fund as other funds in the treasury are kept, and shall be liable on his official bond for all moneys so received.

Sec. 5. The auditor or other proper officer of such city or city and county must prepare and deliver, from time to time, to the treasurer and to every officer of such city or city and county authorized by law to charge any fee, commission, percentage, allowance, or compensation whatsoever for the performance of any official service or duty of any kind or nature, as many official certificates and receipts as may be required, charging the treasurer or other officer receiving them therewith. Such official certificates and receipts must be bound into books containing not less than one hundred such certificates or receipts, and numbered consecutively, beginning with number one in each class required for each officer for each fiscal year, and provided with a stub corresponding in number with each certificate and receipt. When the books containing such certificates and receipts are exhausted by the officer receiving them, he shall return the stubs thereof to the auditor or other proper officer, in whose custody they shall remain thereafter.

Sec. 6. When a receipt as herein provided is issued by the treasurer of such city or city and county, he must state therein the date of payment, the name of the person making the payment, and the amount of such payment, and the nature of the service for which the charge is made, and the name and official designation of the officer performing the service, and shall make corresponding entries on the stub of such receipt.

Sec. 7. Whenever any certificate or receipt is issued by any officer of such city or city and county, other than the treasurer thereof as herein provided, he shall state therein the day and hour of the delivery to him of the treasurer's receipt, the nature of the service therein described, and the amount charged therefor, and the name of the person by whom such receipt is delivered to him, and shall make corresponding entries on the stub to which such certificate or receipt is attached.

Sec. 8. On the first day of each month the treasurer of such city or city and county must make to the auditor or other proper officer thereof a report, under oath, of all moneys received by him, as provided in this act, during the preceding month, showing the date and number of the certificate on which the money was received, the amount of each payment, and by whom paid, and the nature of the service, and the name and official designation of the officer performing the service; and at the same time, or oftener if required by the auditor so to do, exhibit to the auditor all official certificates received by him during the previous month, and all official receipts remaining in his hands unused or not issued at the close of business on the last day of the preceding month.

Sec. 9. On the first day of each month every officer of such city or city and county authorized by law to charge any fee, commission, percentage, allowance, or compensation whatsoever must make to the auditor a report, under oath, of all official certificates and receipts issued by him during the preceding month, showing the date and number of each certificate and receipt, to whom issued, the nature of the service for which the charge was made, and the amount of such charge; and must at the same time exhibit to the auditor or other proper officer, or oftener if required so to do, all treasurer's receipts deposited with him during the preceding month, and all official certificates and receipts remaining in his hands unused or not issued at the close of business on the last day of each preceding month.

Sec. 10. Upon receiving the reports prescribed by sections eight and nine of this act, the auditor or other proper officer of such city or city and county shall examine and settle the accounts of



each officer thereof, and apportion such moneys to the fund or funds to which it is appropriated by law, and certify such apportionment to the treasurer, who shall thereupon transfer from the "unapportioned fee fund" the amounts so certified, and credit each fund entitled thereto with the proper amount so apportioned.

Sec. 11. Every such officer of said cities or cities and counties who is by law allowed to charge and collect mileage for the service of process, and for like service, shall, at the end of each month, prepare and deliver to the auditor or other proper officer of such city or city and county a statement showing each process served, the title of the cause, the name of the deputy or other subordinate officer by whom served, the number of miles actually traveled in making such service, the exact day when such service was made, and between what hours of said day, which statement shall be verified by the oath of such officer. Such auditor or other proper officer of such city or city and county shall thereupon have the power and he is directed to examine such statement, and issue his warrant upon the treasurer of such city or city and county for such amount of money as shall, in his judgment, fully reimburse such officer for his lawful expenses in making such services, and such warrant shall be paid by such treasurer, without further approval, out of the "unapportioned fee fund"; but no extra mileage shall be charged or allowed for service of two or more processes served on the same trip, by the same deputy or deputies, except for extra mileage actually traveled in serving the additional process, and all mileage charged in violation of this section shall be disallowed by such auditor, or other proper officer, and all amounts disallowed for any reason shall be apportioned to the general fund of such city or city and county. Any officer of said cities or cities and counties who, during the preceding month, performed any service for which he is expressly authorized by law to employ a person, at a certain or stated per diem fixed by law, to perform such service, other than his regular deputies or other assistants, whose salaries are paid from the public treasury of such city or city and county, and a

person is so employed, and a service is actually performed by such person, and the charge therefor has been paid to the treasurer for the service of the person so employed, such officer shall, at the end of each month, prepare and deliver to the auditor or other proper officer of such city or city and county a statement showing the case or instance in which such service was performed, and for whom performed, the name of the person so employed and by whom the service was performed, the amount of the charge therefor, the time actually employed in performing such service, and the dates of the beginning and ending of the period during which such person was so employed in performing such service, which statement shall be verified by the oath of such officer. Such auditor, or other proper officer, shall thereupon examine such statement, and if he finds the same to be correct, he shall audit and allow the verified demand of such person so employed and performing the service, for the sum or sums so earned by him and paid to the treasurer for such service, and the treasurer shall pay such demand so audited and allowed, without further approval, out of the "unapportioned fee fund."

Sec. 12. This act shall not apply to any payment required to be made on account of the levy or collection or delinquency of any tax upon property, or any poll tax, nor for any city or city and county license, but all such moneys shall be paid to and shall be accounted for in the same manner and by the same officers as are now required by law to charge, receive, collect, or account for the same.

Sec. 13. All acts or parts of acts, in so far as they conflict with the provisions of this act, are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after the first day of January, eighteen hundred and ninety-five.

Sec. 15. For the purpose of carrying out the provisions of said act the treasurer of any such cities, or cities and counties, is hereby authorized to appoint clerks not to exceed three in number, to be known as fee clerks, and said fee clerks shall be allowed a salary of one hundred and fifty dollars per month; they shall give a bond in

whatever sum the said treasurer may exact, and they shall perform such duties as he, the said treasurer, may direct. The salaries of said clerks shall be a charge and paid out of the unapportioned fee fund in this act created. [New section approved March 26, 1895; Stats. 1895, chap. clx. In effect immediately.]

Sec. 16. The boards of supervisors of any such cities, or cities and counties, if in their judgment they deem it necessary, may grant additional assistance in the way of clerks to any of the fee officers whose labor has been increased under said act; and the salaries of such additional clerks shall be allowed and audited out of said unapportioned fee fund. [New section approved March 26, 1895; Stats. 1895, chap. clx. In effect immediately.]

For a reference to prior acts on the subject of fees, see Deering's Annotated Penal Code, p. 500 et seq.

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## TITLE 85.

### FENCES.

The statutes relating to Fences are collected in Deering's Annotated Penal Code, p. 548, et seq.

*Pen* 102

## TITLE 86.

### FERRY DEPOT.

An act to provide for the issuance and sale of state bonds to create a fund for the construction and furnishing, by the board of state harbor commissioners, of a general ferry and passenger depot in the city and county of San Francisco; to create a sinking fund for the payment of said bonds, and providing for the submission of this act to a vote of the people.

[Approved March 17, 1891; Stats. 1891, p. 110.]

## TITLE 87.

## FIRE DEPARTMENT.

Acts relating to, see Political Code, Appendix, title Fire Department, p. 1014.

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## TITLE 88.

## FIRE PATROL.

Acts relating to, see Civil Code, Appendix, title, Fire Patrol, p. 766 et seq.

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## TITLE 89.

## FIRES.

Acts relating to, see Penal Code, Appendix, title, Fire, p. 552.

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## TITLE 90.

## FISCAL YEAR.

An act providing for changing the fiscal year of cities in this state operating under a charter framed under section eight, article eleven, of the constitution.

[Stat. approved March 26, 1895; Stats. 1895, chap. cxxxix.]

The nature of the act appears from the title.

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## TITLE 91.

## FISH.

The general law in relation to the taking of trout and salmon, and the use of poisons or explosive

substances for taking fish, is contained in the Penal Code, secs. 632 et seq. But several of the special and local acts in relation to fish in particular streams or counties have been expressly continued in force by section 19 of the Political Code, and so far as these acts are concerned, and such others as have been passed since the taking effect of the codes, the general law is modified.

A collection of these special laws is contained in Deering's Annotated Penal Code, p. 556.

See, also, Penal Code, Appendix, p. 554; Political Code, Appendix, p. 1031.

Consult also "An act to regulate the vocation of fishing and to provide therefrom revenue for the restoration and preservation of fish in the waters of the state of California, approved March 21, 1887, Stats. 1887, p. 233.

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## TITLE 92.

### FISH AND GAME WARDEN.

Acts relating to, see Political Code, Appendix, title, p. 1031.

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## TITLE 93.

### FISH COMMISSIONERS.

Acts relating to, see Political Code, Appendix, p. 1031.

Consult also: Act authorizing commissioners to remove obstructions in American river, approved March 5, 1889, Stats. 1889, p. 66. An act authorizing the fish commissioners to dispose of the Governor Stoneman, approved March 16, 1889, Stats. 1889, p. 350.

## TITLE 94.

## FORESTRY.

See Agriculture; Fruit-trees and Vines; Horticulture; Viticulture; Silk Culture.

An act to create a state board of forestry, and to provide for the expenses thereof.

[Approved March 3, 1885; Stats. 1885, p. 10.]

This act was repealed by act of March 23, 1893, post.

An act to enlarge the powers of the state board of forestry, and to provide for the expenses of said board.

[Approved March 7, 1887; Stats. 1887, p. 46.]

This act was not in terms repealed by the act of March 23, 1893, post, but probably fell with the repeal of the act on which it was based.

An act to repeal an act entitled "An act to create a state board of forestry, and to provide for the expenses thereof," approved March 3, 1885, and the act amendatory thereof, approved March 7, 1887, and to make an appropriation for the maintenance and preservation of the property of the board of forestry.

[Approved March 23, 1893; Stats. 1893, p. 229.]

Section 1. An act entitled "An act to create a state board of forestry, and to provide for the expenses thereof," approved March third, eighteen hundred and eighty-five, is hereby repealed.

Sec. 2. All the real and personal property of the said board on or before the first day of July, eighteen hundred and ninety-three, shall be assigned, made over, and transferred to the agricultural department of the university of California.

Sec. 3. There is hereby appropriated the sum of four thousand dollars out of any money in the state treasury not otherwise appropriated, payable to the agricultural department of the university of California, for the support, maintenance, and preservation of the experimental stations of the state board of forestry, and the controller is hereby directed to draw his warrant for the same.



Sec. 4. This act shall take effect from and after July first, eighteen hundred and ninety-three.

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## TITLE 95.

### FRESNO COUNTY.

A reference to special acts relating to Fresno county is contained in Deering's Annotated Penal Code, pp. 57, 58.

An act to permanently locate the county seat of Fresno county.

[Approved March 30, 1874; 1873-4, 913.]

The act located the county seat at Fresno.

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## TITLE 96.

### FRUIT-TREES AND VINES.

See Agriculture: Forestry; Horticulture; Viticulture; Silk Culture.

An act for the better protection of fruit-trees and vines.

[Approved April 9, 1880; 1880, 36 (Ban. ed. 187).]

Commissions and their powers.

Section 1. The board of supervisors in the several counties of this state are hereby authorized, when application is made in writing by five legal voters of any voting precinct in the county, to appoint a commission of such number as they shall deem necessary, to inspect fruit-trees and vines within the district for which they shall have been appointed; and in case disease of any kind be found among said trees or vines, which is extending and likely to extend to neighboring vineyards or orchards, said commission may order such action taken by the removal of such trees and vines, or otherwise, as they may deem necessary for the public good; provided, such commission shall serve without compensation, and the labor necessary to comply with their recommendations

shall be at the expense of the owner of the property.

Sec. 2. This act shall take effect immediately.

An act to prevent the spreading of fruit and fruit-tree pests and diseases, and to provide for their extirpation.

[Approved March 9, 1885; 1885, 40.]

Disinfecting fruit-trees.

Section 1. It shall be the duty of every owner, possessor or occupier of an orchard, nursery, or land where fruit-trees are grown within this state, to disinfect all fruit-trees grown on such lands infested with any insect or insects, or the germs thereof, or infested by any contagious disease known to be injurious to fruit or fruit-trees, before the removal of the same from such premises for sale, gift, distribution, or transportation. Fruit boxes which have been used for shipping fruit to any destination are hereby required to be disinfected previous to their being again used for any purpose; all boxes returned to any orchard, store-room, sales-room, or any place used or to be used for storage, shipping, or any other purpose, must be disinfected within three days after their return; and any and all persons failing to comply with the requirements of this section shall be guilty of a misdemeanor. All packages known as free packages must be destroyed or disinfected before being again used.

Destroying infested fruit.

Sec. 2. It shall be the duty of the owner, lessee, or occupier of any orchard within this state, to gather all fruit infested by the insects known as the codlin moth, peach moth, red spider, plum weevil, and kindred noxious insects, their larvae or pupae, which has fallen from the tree or trees, as often as once a week, and dispose of or destroy the same in such a manner as to effectually destroy all such insects, their larvae or pupae. It shall be the duty of the inspector of fruit pests, or the quarantine guardian to inspect fruit packages and all trees and plants, cuttings, grafts, and scions, known or believed to be infested by any insect or insects, or the germs thereof, or their eggs, larvae, or pupae, injurious to the fruit or

fruit-trees, or infested with any disease liable to spread contagion, imported or brought into this state from any foreign country, or from any of the United States or territories, and if, upon inspection, such fruit or fruit packages are found to be infested or infected, it shall be a misdemeanor to offer the same for sale, gift, distribution, or transportation, unless they shall be first disinfected.

Owner's label on shipped cuttings.

Sec. 3. Every person shipping fruit-trees, scions, cuttings, or plants from any orchard, nursery, or other place where they were grown or produced, shall place upon or securely attach to each box, package, or parcel containing such fruit-trees, scions, cuttings, or plants, a distinct mark or label, showing the name of the owner or shipper and the locality where produced. And any person who shall cause to be shipped, transported, or removed from any locality declared by the state board of horticulture to be infested with fruit-tree or orchard pests, or infected with contagious diseases injurious to trees, plants, or fruits, unless the same shall have been previously disinfected, shall be guilty of a misdemeanor. Disinfection shall be to the satisfaction of the state board of horticulture, or the inspector of fruit pests. When disinfected, the fact shall be stamped upon each box, package, or separate parcel of fruit-trees, scions, cuttings, or plants; and any person who shall cause to be shipped, transported, or removed any such box, parcel or package from a quarantine district or locality, not bearing such stamp, shall be guilty of a misdemeanor, and may be punished by fine, as provided in section six of this act. Any person who shall falsely cause such stamp to be used, or shall imitate or counterfeit any stamp or device used for such purpose, shall be guilty of a misdemeanor.

Duties of members of state board.

Sec. 4. It shall be the special duty of each member of the state board of horticulture to see that the provisions of this act are carried out within his respective horticultural district, and all offenders duly punished.

Cleansing fruit-trees.

Sec. 5. All fruit-trees infested by any insect or insects, their germs, larvae, or pupae, or infected

by disease known to be injurious to fruit or fruit-trees, and liable to spread contagion, must be cleaned or disinfected before the first day of April, eighteen hundred and eighty-five, and on or before the first day of April of every succeeding year thereafter. All owners or occupants of lands on which fruit-trees are grown, failing to comply with the provisions of this section, shall be guilty of a misdemeanor, and fined as provided for in section six of this act. All fruit, packages, trees, plants, cuttings, grafts, and scions that shall not be disinfected within twenty-four hours after notice by the inspector of fruit pests, or a duly appointed quarantine guardian, or any member of the board of horticulture, shall be liable to be proceeded against as a public nuisance.

Penalty.

Sec. 6. Any person or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars for every offense.

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## TITLE 97.

### FUNDS.

See Public Debt, post.

The Political Code, sec. 19. continued in force all acts for funding the state debt, or any part thereof, and for issuing state bonds and acts amending or supplementing such acts.

For a list of these acts, see Deering's Annotated Penal Code, p. 565, et seq.

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## TITLE 98.

### GAME.

See Fish.

For a reference to acts relating to this subject, see Deering's Annotated Penal Code, pp. 576, 596.

## TITLE 99.

## GAME LAWS.

Acts relating to, see Penal Code, Appendix, title Game Laws, p. 561.

*Revised 1876*

## TITLE 100.

## GAS.

An Act to regulate the quality and standard illuminating power and the price of gas in all cities within the State of California having a population of one hundred thousand or more.

[Approved March 4, 1878; 1877-8, 107.]

Quality and price of gas to be fixed by whom.

Section 1. That in all cities in the State of California having a population of one hundred thousand or more, the local legislative body thereof, whether known and designated as the board of supervisors, or board of aldermen, or common council, or board of trustees, or otherwise, are hereby authorized and required to fix the standard quality and illuminating power of gas to be furnished, and the rate and price for each one thousand cubic feet to be charged therefor by any person, company, or corporation whose pipes or mains are or shall be laid down in the streets or highways of such city, for the purpose of supplying gas for the use of such city, or for the inhabitants thereof, or for such city and its inhabitants; provided, however, that said board or local authority shall not fix or establish the standard quality and illuminating power of gas in such city at less than sixteen-candle power, or such that five cubic feet of gas per hour so furnished shall give light at least equal to that afforded by the combustion of sixteen standard sperm candles consuming one hundred and twenty grains of sperm each per hour, the burner to be used in making such test to be that best adapted to the economical consumption of gas; and provided further, that such board of supervisors, or local legislative authority, by whatever name it may be known, shall

not fix or establish the rate or price of gas so furnished to such city or its inhabitants at any greater price or rate than three dollars per thousand cubic feet.

Mayor to appoint an inspector.

Sec. 2. It shall be the duty of the mayor of each city having the population mentioned in section one of this act, and such mayor is hereby required, within thirty days after the passage and approval of this act, to appoint, subject to the approval of the board of supervisors, or other local legislative body aforesaid, a person of competent experience and knowledge of and concerning the proper qualities and illuminating power of gas, and who shall not be directly or indirectly interested in or connected with any person, company, or corporation engaged in the manufacture or furnishing of illuminating gas in such city, or elsewhere, either to such city or its inhabitants, or any of them, either as a stockholder or otherwise, who shall be known and designated as gas inspector of such city, who shall hold his said office for the term of two years, or until his successor shall be appointed and qualified; subject, however, to removal from his said office by the mayor, with the concurrence of a majority of the board of supervisors, or other local legislative board aforesaid, for any one of the following causes, to wit, by reason of any interest in the manufacture or furnishing of gas in such city, whether such interest existed at the date of his appointment or was afterward acquired, or for want of competent knowledge, skill, or experience to enable him properly to discharge the duties of said office, or for any neglect, misconduct, or inefficiency in the discharge of the duties of said office, to the prejudice of such city, or its inhabitants, or any of them. The person so appointed shall, before he enters upon the duties of said office, and within ten days after his appointment and confirmation, take and subscribe an oath or affirmation before the county judge of the county in which such city is situated, that he will faithfully and impartially perform and discharge all the duties required by this act and the ordinances or resolutions of said board passed or adopted under and pursuant to the provisions thereof, as such gas inspector of such city, and shall also, within the same time, give bond to the



city in and for which he is appointed, in the sum of ten thousand dollars, with sureties to be approved by said board, conditioned for the faithful performance of the duties of said office, which said oath and bond shall be filed with the clerk of said board. Such gas inspector shall be entitled to a salary to be fixed and allowed by said board, which shall be paid monthly out of the general fund of such city.

#### Duty of inspector.

Sec. 3. It shall be the duty of such inspector, immediately upon his appointment and qualification as such officer, as aforesaid, to make a careful examination and inquiry by inspection, letter, or otherwise, as to the quality and illuminating power of the gas furnished and used in the principal cities of the United States, and the prices charged therefor, and also the comparative cost of the manufacture and supply of gas in other cities of the United States, with the cost of the manufacture and supply of the same in the city for which he is such inspector, and report fully the result of such examination and information to said board within six months after his appointment and qualification; and upon receiving such reports, said board shall proceed to fix and establish the quality and standard illuminating power of gas to be used in such city, and the maximum price to be charged therefor; and such standard and price may be changed by said board from time to time, not oftener than once every year, as increased consumption or other circumstances may in their judgment require.

Same.

Sec. 4. After said board shall have fixed and established the quality and illuminating power, and the price of gas, as hereinbefore, it shall be the duty of such inspector to examine and inspect, from time to time, at least once every week, without notice to the person, company, or corporation furnishing the same, the quality and illuminating power of the gas furnished to such city and the inhabitants thereof, and in case the same shall fall below the standard fixed by said board, the said inspector shall forthwith report the same to said board; and at such other times as he may be

requested thereto by the mayor or any committee of said boards, he shall report to said board upon any and all matters connected with the manufacture, supply, and consumption of gas coming within the scope of his official duties, and specially upon any subject or subjects, matters or things, connected therewith and specified in such request.

Certain acts declared unlawful.

Sec. 5. After said board shall have fixed and established the quality and standard illuminating power of the gas, and the price per thousand cubic feet, as in this act provided to be charged therefor, it shall be unlawful for any person, company, or corporation to furnish to such city, or any inhabitant thereof, or other person therein, for illuminating purposes, gas of a lower standard or quality, or to charge or receive therefor a higher price than is provided by said board, under the authority and subject to the limitations of this act; and for every violation of the provisions of this act, or the provisions of any order, resolution, or ordinance of said board made in pursuance thereof, every such person, company, or corporation shall incur a penalty of not less than one hundred nor more than one thousand dollars, to be recovered in a civil action in the name and for the use of such city, in any court of competent jurisdiction; and each day upon which such person, company, or corporation shall, without reasonable cause or excuse therefor, furnish gas of a lower quality or standard illuminating power than that fixed by said board, shall constitute and be considered and held one violation thereof, and each month or shorter period for which said person, company, or corporation shall take an account of gas consumed, and for which they shall charge or receive a price greater than that fixed by said board, shall be held and regarded as one offense, and any number of such offenses of either class, or both, may be joined in the same action, and the several penalties for the several violations proved or confessed in said action may be united and recovered in the same judgment; and such person, company, or corporation shall also be liable to such city and to any and each person or corporation who shall be injured by any such violation, in double the amount of damages actually sustained.

Actions tried, by whom.

Sec. 6. All actions for penalties under the provisions of this act shall be tried by the court, unless a jury be demanded by either party; and when such action shall be tried by a jury, the jury shall find, as to each violation charged in the complaint, that "the defendant is guilty," or "the defendant is not guilty;" and upon each charge in respect to which the jury has found the defendant guilty, the court shall fix the penalty, and render judgment for the aggregate amount of such penalties, together with costs of suit.

Sec. 7. All penalties recovered under this act shall be paid into the general fund of such city.

Sec. 8. This act shall apply to the city and county of San Francisco, as well as to cities whose municipal government is distinct from the county in which they are located.

Sec. 9. This act shall take effect immediately.

The Political Code, sec. 19, continues in force the following act in relation to the laying down of gas-pipes and location of gas-works:

### An Act concerning gas companies.

[Approved April 4, 1870; 1869-70, 815.]

#### Granting of franchises to gas companies.

Section 1. From and after the passage of this act, it shall be lawful for the corporate authorities of every city and town in this state, and for the supervisors of the city and county of San Francisco, to grant to any gas company the privilege of laying down pipes in the streets or alleys of such towns and cities, including San Francisco, as aforesaid, and supplying gas for the lighting of the streets and buildings thereon; such privilege to continue for a term not exceeding twenty-five years.

#### Conditions.

Sec. 2. Every such license or privilege shall be upon condition that the authorities shall have the right at any time to allow similar privileges to other companies; and upon the further condition, that the laying down of such pipes shall be subject to the reasonable direction of the said author-

ities, and shall do as little injury as possible to the paving, planking, or macadamizing of the streets and alleys aforesaid; and that whenever the paving, planking, or macadamizing of such streets or alleys is displaced for the purpose of laying down pipes or removing the same, or making connections therewith or repairs thereto, such paving, planking, or macadamizing shall be replaced in as good order as practicable by such company.

Contract for lighting streets.

Sec. 3. The authorities of every such town or city, including San Francisco as aforesaid, may contract with any gas company for lighting the streets thereof; but no such contract shall be made at a fixed rate for a longer term than five years, nor at a variable or other rate for a longer term than ten years; nor shall any such contract be made at a higher rate than that now paid in the city of San Francisco.

Location of works.

Sec. 4. In addition to the foregoing provisions, the authorities of such towns and cities shall affix to every license or contract such conditions as will be for the benefit of the public, and may secure their enforcement by any orders or ordinances which they may deem necessary. They may also control the location and construction of works so that they may be erected in suitable localities to give the least discomfort or annoyance to the public.

Sec. 5. This act shall take effect immediately.

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## TITLE 101.

### GEOLOGICAL SURVEY.

Acts relating to this subject can be found in Deering's Annotated Political Code under section 554.

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### GIFTS.

See ante, Donations to State, etc.

## TITLE 102.

## GLENN COUNTY.

An act to create the county of Glenn, to establish the boundaries thereof, and to provide for its organization.

This act was approved March 11, 1891; Stats. 1891, p. 98.

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## TITLE 103.

## GOATS.

See ante, Estrays.

An Act to prevent buck goats running at large.

[Approved March 23, 1878; 1877-8, 437.]

Buck goats not to run at large.

Section 1. It shall not be lawful for the owner or owners of any buck goat or buck goats, or any person or persons in charge of such goat or goats, to turn or permit such goat or goats to be turned or run at large in any county of this state.

Penalty for violation. •

Sec. 2. Any person violating the provisions of the first section of this act shall, upon complaint and conviction before a justice of the peace of the proper township, be fined in a sum not less than five dollars, nor more than twenty dollars, to be collected as fines are now by law collected.

Sec. 3. This act shall take effect on and after the first day of July, eighteen hundred and seventy-eight.

In addition to the foregoing general act in relation to goats, there are various acts referring to the running at large of and trespassing by these animals. Some of them are noted under the head of "hogs" and "sheep." The following, passed in 1878, may be referred to here:

An act to prevent the trespassing of goats on inclosed lands in Amador county, approved March 26, 1878; 1877-8, 536.

An act to prevent sheep and goats from being herded or running at large in certain portions of Lake county, approved March 29, 1878, 1877-8, 685.

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## GOPHERS.

See Squirrels.

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## TITLE 104.

### GOVERNOR.

Acts relating to, see Penal Code, Appendix, title Governor, p. 564; Political Code, Appendix, title Governor, p. 1035. In addition consult act for purchase of picture of Washington Bartlett, approved March 19, 1889, Stats. 1889, p. 327.

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## TITLE 105.

### GRAND ARMY.

Acts relating to, see Penal Code, Appendix, title Grand Army, p. 564, and post, title Veterans' Home.

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## TITLE 106.

### GROWING TREES.

Acts relating to, see Penal Code, Appendix, title Growing Trees, p. 565.

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## TITLE 107.

### GUARDIANS.

Acts relating to, see Civil Code, Appendix, title Guardians, p. 771.



## TITLE 108.

## HAMBURG HORTICULTURAL EXPOSITION.

An act appropriating money to pay the expenses of collecting, preparing, forwarding, installing and maintaining, taking down and returning an exhibit of the products of the State of California at the Hamburg Horticultural Exposition, to be held at Hamburg, Germany, in eighteen hundred and ninety-seven, and to provide for a commission, secretary of a commission, and the pay of the secretary thereof.

[Stat. approved April 1, 1897; Stats. 1897, chap. ccliii.]

Six thousand dollars was appropriated for the purpose indicated.

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## TITLE 109.

## HARBOR COMMISSIONERS.

Acts relating to: See Political Code, Appendix, title, Harbor Commissioners, p. 1035.

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## TITLE 110.

## HASTINGS LAW SCHOOL.

See University.

Acts relating to the Hastings Law School can be found in Deering's Annotated Penal Code, pp. 740-742, and in Deering's Annotated Political Code, under section 1396.

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## TITLE 111.

## HIDES OF CATTLE.

The Political Code, sec. 19, continued in force the following act:

An act for the better protection of stock raisers in the counties of Fresno, Tulare, Monterey, and Mariposa.

[Approved March 20, 1866, 322.]

*Rev P*  
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## TITLE 112.

## HIGHWAYS.

*repealed*

An Act for the establishment of a uniform system of road government and administration in the counties of the State of California.

[Approved April 1, 1897; Stats. 1897, p. 374.]

In the case of Davis v. Whidden, filed July 28, 1897, it was held that this act commonly known as the Clark Road Law was inconsistent with the county government bill passed at the same session, and was repealed by it.

An act to create a bureau of highways, and prescribe its duties and powers, and to make an appropriation for its expenses.

[Stat. approved March 27, 1895; Stats. 1895, chap. cciii.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. Within ten days after the passage of this act the governor shall appoint three competent persons to compose a bureau of highways, who shall hold office for two years from the date of their qualifying. The persons so appointed shall be selected with particular reference to their qualifications for the duties devolving on them. They shall not be actively engaged in any other pursuit while serving as such commissioners, and shall devote their entire time to the services of the bureau of highways. In case of a vacancy occurring on the said bureau, the governor shall, within ten days, appoint a person of proper qualifications to fill such vacancy.

Sec. 2. The members of the bureau of highways, before entering on the duties of their office, must execute an official bond in the sum of five thousand dollars, and take the oath of office as prescribed in the Political Code for the state officers in general.

Sec. 3. Among the duties of the bureau of highways shall be to gather from each county in the state statistics showing the total mileage of highways, their condition of improvement, the condition of the titles to the right of way, the method of obtaining title and of keeping the records thereof, the method of procedure in granting, closing, and altering roads, and the manner of preserving the records of the same, the manner in which roads are constructed and maintained, the manner of payment for the construction and maintenance of roads, the manner in which the accounts pertaining to the same are kept, the manner in which the money for highway purposes is raised, the amount expended in the past ten years for highway purposes, with the rate of taxation on one hundred dollars that is apportioned to the road fund. It shall inquire into the topographical and geological features of each county, and more particularly with reference to the accessibility of water for road-sprinkling purposes, and stone quarries, deposits of gravel, bituminous rock, sand, adobe, or any other materials suitable for road-making purposes. It shall ascertain all laws, now in force in this state, appertaining to the highways, and shall segregate all such as in the judgment of the members of the bureau are ineffective or obsolete from such as are effective. Inquiry shall be made into what laws and methods are in use in other states in regard to road matters, and an abstract shall be made of such as are best adapted to the state of California. It shall prepare such cross-sections of roads, plans for draining or watering of roads, and for culverts, small bridges, and road appliances as may be deemed expedient. It shall prepare such blank forms as may be necessary to systemize all acts pertaining to the highways, and shall furthermore make any other inquiries in matters regarding highway improvement as will be of interest or benefit to the objects of the said bureau. Information and advice shall be furnished by the bureau of highways, on matters connected with highway improvement and kindred subjects, at any and all times, to all county officials, or others connected with the highways, who may apply for the same, and any and all such information and

advice shall be furnished free of charge. It shall receive orders for road material, to be prepared at the state prisons, and shall forward the same to the governing body of the prisons, and in case the orders exceed the rate of supply, shall make an equitable distribution of the product.

Sec. 4. One or more members of the bureau of highways shall visit each county in the state at least once in each year, and shall hold therein a public meeting, at which there shall be an open discussion of all matters relating to highways or highway improvement.

Sec. 5. The bureau of highways shall have power to call on the clerk of the board of supervisors, surveyor, auditor, or any other official, for such assistance as may be necessary for gathering the information it may desire. It may take testimony of any persons deemed necessary, in relation to matters pertaining to highways, and shall, in doing so, follow the methods set forth in an act entitled "An act creating a board of bank commissioners."

Sec. 6. The members of the bureau of highways shall each receive a salary of three thousand dollars per annum, which shall be audited by the state controller, and paid by the state treasurer, in the same manner as are salaries of other state officials.

Sec: 7. Within ten days after the appointment of the members of the bureau of highways, they shall assemble at the office of the surveyor general at the state capitol, in the city of Sacramento, and shall be called to order by that official, and shall forthwith elect a chairman from among their number, who shall preside at all the meetings of said bureau of highways, and exercise the duties usually devolving upon a presiding officer.

Sec. 8. The office of the bureau of highways shall be located in the state capitol building, in the city of Sacramento. The secretary of state is hereby directed to provide said bureau of highways with a room suitably furnished for that purpose. The office before named shall be the office of the bureau of highways, but the members thereof shall visit such portions of the state and at such times as they may deem advisable or the duties devolving on them may require.

Sec. 9. The bureau of highways shall have the power to employ such clerical, expert, or other assistance as may be necessary for the purpose of conducting the affairs of its office, subject to the approval of the state board of examiners. The members of the bureau of highways, or any employee thereof, shall be allowed their actually necessary traveling expenses when in the discharge of their duty. The bureau of highways shall be allowed all necessary supplies and conveniences for the purpose of conducting the affairs of its office. All claims against the state, contracted by the bureau of highways, shall, before payment, be examined, audited, and approved by the board of examiners.

Sec. 10. The bureau of highways shall have a seal, which shall be affixed to all necessary papers and documents in the usual manner. It shall also cause to be kept proper books, as records of all acts done by it under the provisions of this act.

Sec. 11. It shall be the duty of the state mineralogist to furnish the bureau of highways such data and information as it may call for.

Sec. 12. It shall be the duty of the attorney general to advise the bureau of highways on all legal matters, when requested to do so.

Sec. 13. It shall be the duty of the bureau of highways to prepare a report, which shall be submitted to the governor, in the manner and at the time prescribed by law for the submission of such reports. Said report shall embrace the work and investigation of the bureau for the previous two years, with recommendations that will be useful in framing a practicable road law, together with such information as will be useful in the improvement of the highways. There shall also be published from time to time, as may be deemed advisable by the bureau, bulletins containing useful recommendations and instructions regarding highway construction, maintenance, and kindred subjects.

Sec. 14. It shall be the duty of the state printer, upon proper order from the board of examiners, to print the report of the bureau of highways, together with such bulletins as it may desire to publish, and the distribution shall be made under proper order from the board of examiners.

Sec. 15. The bureau of highways shall, upon the expiration of its existence, which shall be two years after its organization, deliver to the state controller, all property, books, reports, and papers of every description pertaining to its office.

Sec. 16. The sum of thirty-one thousand dollars is hereby appropriated out of any money in the general fund of the state treasury not otherwise appropriated, to pay the expenses of the said bureau, and the state controller is hereby directed to draw his warrant for the same from time to time, as necessary, and the state treasurer is hereby directed to pay the same. Said appropriation shall cover all the expenses of the bureau of highways, and in no case shall an indebtedness over and above the amount so appropriated be created or allowed. One-half of the appropriation herein made shall be available during the forty-seventh fiscal year, and the other half during the forty-eighth fiscal year.

Sec. 17. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its passage and approval.

An Act to create a Department of Highways for the State of California, to define its duties and powers, to provide for the appointment of officers and employees thereof, and to provide for the compensation of said officers and employees, and for the additional expenses of said department, and to make an appropriation therefor for the remainder of the forty-eighth fiscal year.

[Stats. approved April 1, 1897; Stats. 1897, chap. cclxvii.]

Section 1. A department of and for the State of California, to be known as the Department of Highways, is hereby created, to consist of three chief executive officers, who shall be known as Highway Commissioners. Said department, its officers and employees, shall have and exercise the powers and duties hereinafter specified, and such as are or may be otherwise provided by law.



Sec. 2. Immediately upon the taking effect of this act, the Governor, by and with the consent and advice of the Senate, shall appoint three persons as highway commissioners. The persons so appointed shall be selected with particular reference to their qualifications for, and practical knowledge of, highway location, construction, and maintenance. The highway commissioners shall devote their entire time to the service of the State, and shall not actively engage in any other pursuit while serving as highway commissioners. The commissioners shall personally perform all the engineering work of the department; provided, that the department may be allowed assistance on the engineering work thereof on receiving the unanimous approval of the State Board of Examiners. 2

Sec. 3. Each of the highway commissioners shall hold office for the term of two years from and after the date of his qualification, as hereinafter provided for. At the expiration of said last-named term two of said three offices shall thereupon cease and determine, and the powers and duties herein specified shall devolve upon one highway commissioner. At least thirty days prior to the expiration of the terms of the highway commissioners provided for above in this section the Governor, by and with the advice and consent of the Senate, unless it be otherwise provided by law, shall appoint, for a term of four years, and every four years thereafter, one civil engineer as highway commissioner, who shall have the qualifications specified in section two of this act, and upon him shall devolve all of the duties and powers which shall be conferred upon the commissioners first appointed under the provisions of this act, and who shall receive like compensation. When ever a vacancy occurs in the office of highway commissioner, it shall be the duty of the Governor



to fill such vacancy for the unexpired term, which appointment shall be confirmed by the Senate at its next session.

Sec. 4. Within twenty days after receiving notice of appointment, the person or persons so appointed shall file a bond in the sum of ten thousand dollars (\$10,000), with at least two sufficient sureties thereon, for the faithful performance of his duties, which bond must be approved by the Governor, and filed with the Secretary of State, and qualify by taking the oath of office as prescribed for State officers.

Sec. 5. The three chief executive officers hereinbefore provided for shall immediately, upon qualifying, organize by electing one of their number as president and shall adopt a seal for the authentication of its acts, records, and proceedings.

Sec. 6. The Department of Highways shall have power to appoint a secretary, and a stenographer, who shall hold office at the pleasure of the department. Such employees shall not be eligible for such appointment unless they possess special qualifications for, and are competent to perform the duties devolving on them; and they shall devote their entire time to the service of the department.

Sec. 7. The office of the Department of Highways shall be in the State Capitol building; and the Secretary of State shall assign to the department, for its use, such rooms as may be necessary for its accommodation. All of the regular meetings of the department shall be held at such office. The department may, however, hold such special meetings at such places as the duties of the department, or the best interests of the State, may require.

Sec. 8. The Department of Highways shall take possession, in the name of the State, as rapidly as the funds provided therefor will permit, of all roads which have been or may be declared State highways.

Sec. 9. The Department of Highways shall have charge of all expenditures made by the State for highway purposes, except as otherwise provided by law; and all moneys appropriated for such purpose shall be made payable upon proper order of said department. All claims and accounts which may be incurred by the Department of Highways shall, however, before payment, be audited by the Board of Examiners.

Sec. 10. The Department of Highways shall make examination into existing highway conditions in the State of California, and shall, furthermore, make such investigations within the State, as will put at the service of the State the most approved methods of highway improvement. It shall supply, on request, without charge, any information relative to highways required by any county or district official having care of and authority over highways within this State. It shall collect and collate data relating to the geological formation of the State in so far as it relates to material suitable for highway construction, and make analyses and tests of such material as it may deem suitable for highway uses, with the view of determining the value of the same for such purposes. All data so collected, together with such other matters of value or interest to the people of the State, shall be published in bulletins, or upon maps or diagrams, or in other proper form, or in the biennial report of the department, as it in its discretion shall determine. The department shall prepare and adopt styles and forms of books for use by officials, in which to keep account of the expenditure of highway money and all other records or proceedings relating to highways. It shall prepare such forms as may be necessary for use in connection with opening, abandoning, altering, locating, constructing, maintaining, obtaining title to, or otherwise relating to proposed State highways; and such books and forms, when so adopted,

shall be the standard for use in the State. Copies of them shall be forwarded to the various officials who are charged with keeping or using the same, and such officials shall immediately prepare books and forms after the style shown by such standard, and shall thereafter use them exclusively for the purposes for which they are intended. It shall be the duty of the department to adopt such general forms for the surveying of State highways, mapping, and keeping of the notes thereof, and the permanent marking of the same on the ground, as it shall deem necessary, and shall issue instructions defining such general forms and markings to the person having charge of the making of such surveys; and it shall thereafter be the duty of such persons to follow the methods prescribed in such instructions. The Department of Highways, in performance of its duties, shall have the power to call upon any State, county, or district official to furnish it with any information contained in his office which relates to or is in any way necessary to the proper performance of the work of said department; and it is hereby made the duty of such officials to furnish such information without cost. The Attorney General of the State shall be the legal adviser of the Department of Highways, and said Department of Highways shall call upon the Attorney General of the State for all such legal advice and services as the discharge of its duties may require.

Sec. 11. The department shall prepare biennial reports, which shall be submitted to the Governor at least thirty days before each session of the Legislature. Said report shall embrace the work and investigations of the department for the previous two years, together with such recommendations for changes in the law which it may deem advisable, and which the proper and economical maintenance of the highways may demand.

Sec. 12. It shall be the duty of the State Controller, upon the demand of the Department of Highways, to transfer to it, for its use, all of the property, books, reports, and papers of every description which shall be transferred to him under the provisions of an act entitled "An Act to create a bureau of highways, and prescribe its duties and powers, and make an appropriation for its expenses," approved March twenty-seventh, eighteen hundred and ninety-five.

Sec. 13. It shall be the duty of the State Printer to print such reports, bulletins, or other matter, and furnish any necessary illustrations or diagrams therefor as the Department of Highways may deem necessary; all of which shall first be subject to the approval of the State Board of Examiners.

Sec. 14. The Department of Highways shall have the power and authority to employ, when in its judgment it is deemed necessary, such assistance of a special character as may be necessary and proper, for the discharge of its duties. The department shall also have the power to purchase such supplies, fixtures, and conveniences, as may be necessary in the performance of its work. The Commissioners of the Department of Highways, or any employee thereof, shall be allowed their necessary traveling expenses while engaged in the discharge of their duties within the State. All of the expenses mentioned in this section, except as otherwise herein provided, shall be paid from the appropriation for the contingent expenses of the Department of Highways. The employment and compensation of assistants under the provisions of this section must receive the approval of the State Board of Examiners. The expense incurred in locating and definitely surveying State highways in a county shall be paid from the funds apportioned thereto for State highway purposes.

Sec. 15. The Commissioners of Highways shall

each receive the sum of three thousand dollars (\$3,000) per annum; the secretary the sum of fifteen hundred dollars (\$1,500) per annum; and the stenographer the sum of twelve hundred \$1,200) per annum. Such salaries shall be paid at the same time and in the same manner as are the salaries of other State officers.

Sec. 16. For the purposes of carrying out the provisions of this act, the sum of three thousand dollars (\$3,000) is hereby appropriated out of any money in the State treasury not otherwise appropriated, to pay the salaries of the officers, and employees and the other expenses of said department for the remainder of the forty-eighth fiscal year.

Sec. 17. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its passage.

An Act to provide for the protection and preservation of public highways from damage by storm waters and floods, and to authorize the expenditure of public moneys for the purposes thereof.

[Stat. approved April 1, 1897; Stats. 1897, chap. cclviii.]

Section 1. Whenever it appears to the Board of Supervisors that any public road, in any road district of the county, is in danger of being damaged by storm waters, or floods, or whenever any public highway has already been damaged by storm waters, or floods, it is hereby made the duty of the Board of Supervisors to adopt such measures as may be necessary to prevent such damage, or to repair the same; and the Board of Supervisors is hereby authorized to construct flumes, ditches, or canals, for the purpose of carrying off such storm waters, or floods, to a place of safety, and may

condemn the right of way for such flumes, ditches, or canals for such purpose; provided, however, that no more than the sum of one thousand dollars shall be used for such purpose in any one road district of the county in any one year.

Sec. 2. All moneys used for the purposes of this act may be taken from the general road fund of the county.

Sec. 3. This act shall take effect and be in force from and after its passage.

An Act to provide for the construction of a state highway or wagon road from Sacramento City to Folsom, in Sacramento County, and appropriating crushed rock and granite or stone blocks for drains and culverts for same. [Stat. approved March 29, 1897; Stats. 1897, chap. clxxvi.]

The object of the act appears from the title.

An Act relating to the granting by counties and municipalities of franchises for the construction of paths and roads for the use of bicycles and other horseless vehicles.

[Stat. approved March 27, 1897; Stats. 1897, chap. cxxx.]

Section 1. The legislative or other body to whom is intrusted the government of any county, city and county, city, or town, may, under such regulations, restrictions, and limitations as it may provide, subject to existing laws, grant franchises for the construction of paths and roads, either on the surface, elevated, or depressed, on, over, across, or under the streets and public highways of any such county, city and county, city, or town, for the use of bicycles, tricycles, motor-cycles, and other like horseless vehicles, propelled by the rider, for a term not exceeding fifty years; provided, that in incorporated cities no franchise shall be granted for the purpose herein expressed, unless the con-



sent in writing of the owners of a majority of the frontage upon the road or street, along which said path or road is sought to be constructed, be first had and obtained and filed with such legislative or governing body.

Sec. 2. This act shall take effect immediately.

An Act to regulate the widths of tires of wagons to be used on the public highways of the State of California.

[Stats. approved March 20, 1897; Stats. 1897, chap. cxvii.]

Section 1. The width of tires for wheels upon wagons or other vehicles to be used upon public highways of the State of California, shall be, for the following styles of wagons, as follows: Two and three-fourths inch steel or thimble-skein axle, one and seven-eighths inch tubular steel or iron axle, not less than three-inch tire; one and one-half inch steel or iron axle, two and one-eighth inch tubular or iron axle, not less than three and one-half inch tire; three-inch steel or thimble-skein, one and five-eighths inch steel or iron axle, two and three-eighths inch tubular steel or iron axle, not less than four-inch tire; three and one-fourth inch steel or thimble-skein, one and three-fourths or one and seven-eighths inch steel or iron axle, two and five-eighths inch tubular steel or iron axle, not less than four and one-half inch tire; three and one-half inch steel or thimble-skein, two-inch steel or iron axle, two and seven-eighths inch tubular steel or iron axle, not less than five-inch tire; three and three-fourths inch steel or thimble-skein, two and one-fourth steel or iron axle, three or three and one-eighth inch tubular steel or iron axle, not less than five and one-half inch tire; four-inch and larger, steel or thimble-skein, two and one-half inch, and larger, steel or iron axle, three and one-

fourth inch, and larger, tubular steel or iron axle, not less than six-inch tire. Other styles of axle shall have tires of same width as those of equal carrying capacity above specified. All intermediate sizes shall have tires of the same width as the next larger size above specified.

Sec. 2. Every person who sells, or purchases, or uses upon any public highway of the State of California any wagon or other vehicle, the wheels of which wagon or vehicle has tires of a less width than as specified for such kind of wagon in section one of this act, shall be guilty of a misdemeanor.

Sec. 3. Every person who brings into the State of California, or who, in said State, offers to sell or sells any such wagon or vehicle which has not tires of the width prescribed by section one of this act, shall be guilty of a misdemeanor.

Sec. 4. Any person found guilty of a violation of any of the provisions of this act shall be fined in the penal sum of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) or to be imprisoned in the county jail not less than twenty-five (25) days nor more than six months.

Sec. 5. This act shall take effect and be in force after January first, nineteen hundred.

An act to appropriate money for the purchase of certain roads within the limits of the Yosemite grant.

[Approved March 14, 1889; 1889, 142.]

Fourteen thousand dollars was appropriated for the purposes indicated.

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## TITLE 113.

### HOGS.

The acts concerning hogs found running at large seem to be continued in force by the Political

Code, sec. 19, subd. 23. They are, in one sense, laws in relation to estrays or trespassing animals, and should be read in connection with the laws on those subjects. It may be observed, however, that if it was the intention to continue enactments, which like these involve penalties and forfeitures, the declaration to that effect ought to be plainer.

A reference to these acts will be found in Deering's Annotated Penal Code, p. 582, et seq.

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## HOME FOR FEEBLE-MINDED CHILDREN.

• See Feeble-Minded Children.

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## TITLE 114.

### HOME OF ADULT BLIND.

Consult the following acts:

8 An act appropriating forty thousand dollars for the purpose of the establishment and management of the Industrial Home of Mechanical Trades for the Adult Blind of the State of California.

[Approved March 5, 1885; 1885, 198.]

8 An act appropriating the sum of twenty-eight thousand five hundred dollars, for the purpose of purchasing suitable property for the location of the industrial home of mechanical trades for the adult blind of California.

[Approved March 17, 1887; 1887, 175.]

8 An act establishing an industrial home of mechanical trades for the adult blind of the state of California, creating a board of directors for the government thereof, and appropriating the sum of sixty-five thousand dollars for the support of said home.

[Approved March 17, 1887; 1887, 160.]

This act was amended March 14, 1889, Stats. 1889, p. 147.

See the former act on this subject approved March 5, 1885; Stats. 1885, p. 198.

An act to appropriate the money now in the treasury of the state of California, known as the adult blind fund, unavailable.

[Approved March 14, 1889; 1889, 152.]

An act appropriating the sum of ten thousand dollars to erect a brick building, to be used as a dormitory for the "adult blind" inmates at the home for the adult blind.

[Approved March 21, 1887; 1887, 234.]

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## TITLE 115.

### HOME OF THE INEBRIATE.

The Political Code, sec. 19, expressly continued in force the following act in relation to the home of the inebriate in San Francisco.

An act relating to the home of the inebriates of San Francisco, and to prescribe the powers and duties of the board of managers and the officers thereof.

[Approved April 1, 1870; 1869-70, 585.]

This act and acts of May 2, 1862 and April 17, 1876, relating to the same subject were repealed by the act of March 26, 1895, Stats. 1895, p. 76; see also March 27, 1895, Stats. 1895, p. 201.

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## TITLE 116.

### HOMESTEADS.

Acts relating to, see Civil Code, Appendix, title, Homesteads, p. 771 et seq. *CC* 124

## TITLE 117.

## HOMING PIGEONS.

An act for the protection of the Antwerp messenger, or homing pigeon.

[Stat. approved February 26, 1897; Stats. 1897, chap. xxxix.]

The people of the state of California, represented in Senate and assembly, do enact as follows:

Section 1. It shall be unlawful for any person, other than the owner thereof, to shoot, maim, or kill any Antwerp messenger, or homing pigeon, either in flight or at rest.

Sec. 2. It shall be unlawful for any person, other than the owner thereof, to shoot, maim, or detain any Antwerp messenger, or homing pigeon.

Sec. 3. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, for every such offense, shall be punished by a fine of not less than ten (10) or more than twenty-five (25) dollars, or by imprisonment in the county jail for a term not exceeding fifty (50) days.

Sec. 4. This act shall take effect and be in force from and after its passage.

## TITLE 118.

## HOPS.

An act fixing the rate of tare on baled hops.

[Approved March 31, 1891; Stats. 1891, p. 452.]

Section 1. There shall be allowed on baled hops a tare at the rate of two per centum of the weight of the bale for the cloth and other material used in baling; that is, the tare shall be at the rate of two pounds per hundred on the weight of the bale.

Sec. 2. This act shall take effect and be in force from and after its passage.

## TITLE 119.

## HORTICULTURE.

See Agriculture; Forestry; Viticulture.

An act to create and establish a state board of horticulture, and appropriate money for the expenses thereof.

[Approved March 13, 1883; 1883, 289.]

Board of horticulture—Districts.

Section 1. There shall be a state board of horticulture, consisting of nine members, who shall be appointed by the governor; two from the state at large, and one from each of the seven horticultural districts, which are hereby constituted as follows:

1. The Sonoma district, which shall include the counties of Sonoma, Marin, Lake, Mendocino, Humboldt, Del Norte, Trinity, and Siskiyou.

2. The Napa district, which shall include the counties of Napa, Solano, and Contra Costa.

3. The San Francisco district, which shall include the city and county of San Francisco, and the counties of San Mateo, Alameda, Santa Clara, Santa Cruz, San Benito, and Monterey.

4. The Los Angeles district, which shall include the counties of Los Angeles, Ventura, Santa Barbara, San Luis Obispo, San Bernardino, and San Diego.

5. The Sacramento district, which shall include the counties of Sacramento, Yolo, Sutter, Colusa, Butte, Tehama, and Shasta.

6. The San Joaquin district, which shall include the counties of San Joaquin, Stanislaus, Merced, Fresno, Tulare, and Kern.

7. The El Dorado district, which shall include the counties of El Dorado, Amador, Calaveras, Tuolumne, Mariposa, Placer, Nevada, Yuba, Sierra, Plumas, Lassen, Modoc, Alpine, Mono and Inyo.

Members.

Sec. 2. The members appointed from each district shall be residents of the district from which they are appointed, and shall be specially qualified

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by practical experience and study in connection with the industries dependent upon horticulture, They shall each hold office for the term of four years, except that of the nine first appointed, four, to be determined by lot, shall retire at the end of two years, when their successors shall be appointed by the governor.

#### Officers.

Sec. 3. The board shall biennially elect a president, a vice-president, a chairman of the finance committee, and appoint from without their own number a secretary, who shall be ex-officio horticultural officer; and elect of their own number a treasurer, who shall give a bond to the state, with sureties approved by the board, in the sum of ten thousand dollars, for the faithful discharge of his duties. [Amendment approved March 7, 1889; Stats. 1889, p. 89. In effect immediately.]

#### Powers and duties.

Sec. 4. The board may receive, manage, use, and hold donations and bequests for promoting the objects of its formation. It shall meet semi-annually, and as much oftener, and at such places, as it may deem expedient, to consult and adopt such measures as may best promote the horticultural industries of the state. It may, but without expense to the state, select and appoint competent and qualified persons to lecture in each of the horticultural districts named in section one of this act, for the purpose of illustrating practical horticultural topics, and imparting instruction in the methods of culture, pruning, fertilizing, and also in the best methods of treating the diseases of fruit and fruit-trees, cleansing orchards, and exterminating insect pests. The office of the board shall be kept open to the public, subject to the rules of the board, every day, excepting legal holidays, and shall be in charge of the secretary during the absence of the board.

#### Disinfection of packages.

Sec. 5. For the purpose of preventing the spread of contagious disease among fruit and fruit-trees, and for the prevention, treatment, cure, and extirpation of fruit pests and the diseases of fruit and fruit-trees, and for the disinfection

tion of grafts, scions, orchard debris, empty fruit boxes, and packages, and other suspected material or transportable articles, dangerous to orchards, fruit, and fruit-trees, said board shall make regulations for the inspection and disinfection thereof, which said regulations shall be circulated in printed form by the board among the fruit growers and fruit dealers of the state shall be published at least twenty days in two daily newspapers of general circulation in the state not of the same city or county, and shall be posted in three conspicuous places in each county in the state, one of which shall be at the county courthouse. thereof. Such regulations when so posted shall be held to impart notice of their contents to all persons within the state, and shall be binding upon all persons.

Appointment of clerk of the publishing and quarantine bureau.

Sec. 6. Said board shall appoint from without their number a competent person, especially qualified for the duties of his office, who shall be known as clerk of the publishing and quarantine bureau of the state board of horticulture (to hold office at the pleasure of the board), who shall be qualified, by experience and education as a compiler, to correct reports and essays, to present in a logical order all the information to be published, and shall give his whole time in such work, and such other duties as may be required of him by the board and by reason of his official position, and shall have power to enforce all rules and regulations regarding the spread of insect pests, quarantining districts or nurseries found to be infected. He shall be paid for his services as clerk of the publishing and quarantine bureau of the state board of horticulture one hundred and seventy-five dollars per month, to be paid as other state officers. [Amendment approved March 7, 1889; Stats. 1889, p. 89. In effect immediately.]

Appointment of quarantine guardians.

Sec. 7. The said board, and in case of necessity during the recess of the board, the said clerk of the publishing and quarantine bureau, may appoint such quarantine guardians as may be needed

to carry out the provisions of this act, whose duties it shall be to see that the regulations of the board, and the instructions of the clerk of the publishing and quarantine bureau, are enforced and carried out; said clerk may appoint, in case of emergency, a deputy, who shall have the same power as his own, whose salary shall not exceed three dollars per day for each day's services performed, said services to be paid for by the state board of horticulture. The said quarantine guardians shall report to said clerk, or to the state board, all infractions or violations of said directions, regulations and of the law in regard to quarantine, disinfection, and destruction of insect and other pests injurious to fruit, fruit-trees, or vines, and precautions against the spreading of all the aforesaid named pests and diseases. The salary of quarantine guardian shall not exceed three dollars per day, and shall be paid by the owners of orchards and other places and localities under quarantine regulations; and they may maintain an action therefor before any justice of the peace in any township in which any quarantine locality is wholly or in part situated, but in no case shall they have any claim upon the state for such services. [Amendment approved March 7, 1889; Stats. 1889, p. 89. In effect immediately.]

Secretary, duties of.

Sec. 8. It shall be the duty of the secretary to attend all meetings of the board and of the executive committee, and to preserve records of its proceedings and correspondence; to collect books, pamphlets, and periodicals, and other documents containing information relating to horticulture, and to preserve the same; to collect statistics and other information showing the actual condition and progress of horticulture in this state and elsewhere; to correspond with agricultural and horticultural societies, colleges, and school of agriculture and horticulture, and other persons and bodies, as he may be directed by the board; and prepare, as required by the board, reports for publication. He shall appoint, subject to the approval of the board, a competent person as clerk, and he shall be held responsible for the acts of

said clerk. He shall be paid for his services as such secretary and ex-officio horticultural officer a salary of one hundred and seventy-five dollars per month. His clerk shall be paid a salary (as such clerk) of fifty dollars per month, each to be paid as other state officers. [Amendment approved March 7, 1889; Stats. 1889, p. 89. In effect immediately.]

#### Compensation.

Sec. 9. Repealed March 7, 1889; Stats. 1889, p. 89. In effect immediately.

#### Reports.

Sec. 10. The board shall biennially, in the month of January, report to the legislature a statement of its doings, with a copy of the treasurer's accounts for the two years preceding the session thereof, and abstracts of the reports of the inspector of fruit pests and secretary. Said report shall not exceed one hundred printed pages.

#### Duty of treasurer.

Sec. 11. The treasurer shall receive all moneys belonging to the board, and pay out the same only for bills approved by the chairman of the finance committee, and shall, annually, render a detailed account to the board.

Section 11 of this act was amended to read as above by an act approved February 18, 1885, to take effect immediately.

#### Appropriation.

Sec. 12. There is hereby appropriated for the use of the state board of horticulture, as set forth in this act, out of any moneys in the state treasury not otherwise appropriated, for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, the sum of one thousand dollars, and the state controller shall draw his warrants upon the state treasurer in favor of the treasurer of said board for the same, upon proper demand. [Amendment approved March 7, 1889; Stats. 1889, p. 89.

In effect immediately.]

Sec. 13. This act shall take effect and be in force from and after its passage, and all acts or parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

### Executive committee.

Sec. 14. The president (and in his absence the vice-president) and the two commissioners for the state at large shall constitute the executive committee; said committee shall have charge of the management of the affairs of the board while the board is not in session. The members of said committee shall receive their actual traveling expenses in attending quarterly meetings of the executive committee. The other members of the board shall receive their actual traveling expenses (only) in attending semi-annual meetings of the board. [New section approved March 7, 1889; Stats. 1889, p. 89. In effect immediately.]

### Vacancies.

Sec. 15. Vacancies occurring in any office shall be filled by appointment made by the president of the board, with the consent of the executive committee, until the next meeting of the board. [New section approved March 7, 1889; Stats. 1889, p. 89. In effect immediately.]

### To publish reports.

Sec. 16. Said board shall make and publish their reports annually. [New section approved March 7, 1889; Stats. 1889, p. 89. In effect immediately.]

### County boards.

Sec. 17. It shall be the duty of the county boards of horticulture to make quarterly reports in writing to the state board of the condition of fruit interests in their several districts, what is being done to eradicate insect pests, also as to disinfecting, and as to quarantine against new insects, and as to carrying out of all laws relative to the greatest good of the fruit interest. Said board shall publish said reports in bulletin form, or may incorporate so much of the same in their annual reports as may be of general interest. [New section approved March 7, 1889; Stats. 1889, p. 89. In effect immediately.]

### Expenditures, how determined.

Sec. 18. The expenditures necessary to be made in experiments in the different districts shall be determined by the board. On application of one or more of the fruit growers in such districts, the

said board shall select such person or persons to make such experiments, and pay the expenses thereof. The sum of not exceeding one thousand dollars for traveling expenses shall be allowed when the board or the executive committee shall deem it necessary to send either the clerk of bureau or secretary to direct and supervise such experiments; provided, that not more than one thousand dollars shall be expended in any one year for such traveling expenses. [New section approved March 7, 1889; Stats. 1889, p. 89. In effect immediately.]

An act to promote the horticultural interests of the state by providing county boards of horticulture, and repealing the act entitled "An act to protect and promote the horticultural interests of the state," approved March 14, 1881, and certain acts amendatory thereof, approved March 19, 1889, and March 31, 1891.

[Stat. approved March 31, 1897; Stats, 1897, chap. clxxxiii.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. Whenever a petition is presented to the board of supervisors of any county, and signed by twenty-five or more persons, each of whom is a resident freeholder and possessor of an orchard, stating that certain or all orchards, or nurseries, or trees of any variety are infested with scale insects of any kind, injurious to fruit, fruit-trees, and vines, codlin moth, or other insects that are destructive to trees, and praying that a commission be appointed by them, whose duty it shall be to supervise the destruction of said scale insects, as herein provided, the board of supervisors shall, within twenty days thereafter, appoint a board of horticultural commissioners, consisting of three members, who shall be qualified for the duties of horticultural commissioner. Upon the petition of twenty-five resident freeholders and possessors of an orchard, the board of supervisors may remove any of said commissioners for cause, after a hearing of the petition.



Sec. 2. It shall be the duty of the county board of horticultural commissioners in each county, whenever it shall deem it necessary, to cause an inspection to be made of any orchards, or nursery, or trees, plants, vegetables, vines, or fruits, or any fruit packing-house, storeroom, salesroom, or any other place or articles in their jurisdiction, and if found infested with scale insects, or codlin moth, or other pests injurious to fruit, plants, vegetables, trees, or vines, or with their eggs, or larvae, they shall notify the owner or owners, or person or persons in charge, or in possession of the said places, or orchards, or nurseries, or trees, or plants, vegetables, vines, or fruit, or articles as aforesaid, that the same are infested with said insects, or other pests, or any of them, or their eggs or larvae, and they shall require such person or persons, to eradicate or destroy the said insects, or other pests, or their eggs or larvae within a certain time to be specified. Said notices may be served upon the person or persons, or either of them owning or having charge, or having possession of such infested place, or orchard, or nursery, or trees, plants, vegetables, vines, or fruit, or articles, as aforesaid, by any commissioner, or by any person deputed by the said commissioners for that purpose, or they may be served in the same manner as a summons in a civil action. Any and all such places, or orchards, or nurseries, or trees, plants, shrubs, vegetables, vines, fruit, or articles thus infested, are hereby adjudged and declared to be a public nuisance; and whenever any such nuisance shall exist at any place within their jurisdiction, or on the property of any non-resident, or on any property the owner or owners of which cannot be found by the county board of horticultural commissioners, after diligent search, within the county, or on the property of any owner or owners upon which notice aforesaid has been served, and who shall refuse or neglect to abate the same within the time specified, it shall be the duty of the county board of horticultural commissioners to cause said nuisance to be at once abated, by eradicating or destroying said insects, or other pests, or their eggs, or larvae. The expense thereof shall be a county charge, and the



board of supervisors shall allow and pay the same out of the general fund of the county. Any and all sum or sums so paid shall be and become a lien on the property and premises from which said nuisance has been removed or abated, in pursuance of this act, and may be recovered by an action against such property and premises. A notice of such lien shall be filed and recorded in the office of the county recorder of the county in which the said property and premises are situated, within thirty days after the right to the said lien has accrued. An action to foreclose such lien shall be commenced within ninety days after the filing and recording of said notice of lien, which action shall be brought in the proper court by the district attorney of the county in the name and for the benefit of the county making such payment or payments, and when the property, is sold enough of the proceeds shall be paid into the county treasury of such county to satisfy the lien and costs; and the overplus, if any there be, shall be paid to the owner of the property if he be known, and if not, into the court for his use when ascertained. The county board of horticultural commissioners is hereby vested with the power to cause any and all such nuisances to be at once abated in a summary manner.

Sec. 3. Said county boards of horticultural commissioners shall have power to divide the county into districts, and to appoint a local inspector, to hold office at the pleasure of the commissioners, for each of said districts. The state board of horticulture may issue commissions as quarantine guardians to the members of said county board of horticultural commissioners and to the local inspectors thereof. The said quarantine guardians, local inspectors, or members of said county boards of horticultural commissioners, shall have full authority to enter into any orchard, nursery, place or places where trees or plants are kept and offered for sale or otherwise, or any house, store-room, salesroom, depot, or any other such place in their jurisdiction to inspect the same, or any part thereof.

Sec. 4. It shall be the duty of said county board of horticultural commissioners to keep a record of their official doings, and to make a report to the state board of horticulture, on or before the first day of October of each year, of the condition of the fruit interests in their several districts, what is being done to eradicate insect pests, also as to disinfecting, and as to quarantine against insect pests and diseases, and as to carrying out all laws relative to the greatest good of the fruit interest. Said board may publish said reports in bulletin form, or may incorporate so much of the same in their annual reports as may be of general interest.

Sec. 5. The salary of all inspectors working under the county board of horticultural commissioners shall be two dollars and fifty cents (\$2.50) per day. In the case of the commissioners themselves, their compensation shall be four dollars per day, when actually engaged in the performance of their duties, and itemized necessary traveling expenses incurred in the discharge of their regular duties as prescribed in this act.

Sec. 6. It shall be the duty of the county board of horticultural commissioners to keep a record of their official doings and make a monthly report to the board of supervisors; and the board of supervisors may withhold warrants for salaries of said members and inspectors thereof until such time as said report is made.

Sec. 7. An act entitled "An act to protect and promote the horticultural interests of the state," approved March fourteenth, eighteen hundred and eighty-one, and certain acts amendatory thereof, approved March nineteenth, eighteen hundred and eighty-nine, and March thirty-first, eighteen hundred and ninety-one, are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its passage.

## TITLE 120.

## HOSPITALS.

An act conferring power upon the governing body of municipal corporations of the first class to provide for the erection of a municipal hospital, and to levy a tax therefor.

[Stat. approved February 16, 1897; Stats. 1897, chap. xiii.]

Consult Statutes of 1897 for act.

## TITLE 121

## HOUSE OF CORRECTION.

Acts relating to, see Penal Code, Appendix, title, House of Correction, p. 566.

## TITLE 122.

## HUMBOLDT BAY.

Consult the following acts:

An act to grant to the United States certain tidelands belonging to the state of California, for the purpose of improving the harbor of Humboldt bay.

[Approved March 9, 1887; 1887, 59.]

An act to grant to the United States certain tidelands belonging to the state of California, for the purpose of improving the harbor of Humboldt bay.

[Approved March 15, 1889; 1889, 201.]

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TITLE 123.

## HUMBOLDT COUNTY.

A reference to local acts relating to Humboldt county is contained in Deering's Annotated Penal Code, pp. 593-595.

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## TITLE 124.

## HUNTING ON PRIVATE GROUNDS.

A reference to acts relating to hunting is contained in Deering's Annotated Penal Code, pp. 595 and 596.

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## TITLE 125.

## HUSBANDRY.

An Act providing for the appointment of a commission to make arrangements for the proper reception of the national grange of the patrons of husbandry, and appropriating money to defray the expenses thereof.

[Approved March 6, 1889; 1889, 68.]

The purpose of the act appears from the title.

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## TITLE 126.

## INDIANS.

An act for the government and protection of Indians, passed April 22, 1850, 408, with its amendments, will be found in the General Laws," secs. 3650 et seq. Without further legislation, or an adjudication by the supreme court, it will be difficult to determine how much, if any, of it is in force. It is deemed sufficient in this place to thus call attention to the subject.

Consult also the following:

An Act to provide for the auditing and examination of the claims against the State, of soldiers who served in the Indian wars in California, during the years from 1847 to 1857, to authorize the Adjutant-General to appoint a clerk for that purpose, and making an appropriation for his salary.

[Stat. approved March 31, 1897. Stats. 1897, chap. clxxxvii.]

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## TITLE 127.

### INDIGENT SICK AND INFIRMARIES.

A reference to the acts bearing on this subject is contained in Deering's Annotated Penal Code, pp. 598, 599.

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## INDUSTRIAL HOME OF ADULT BLIND.

See Home of Adult Blind.

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## TITLE 128.

### INFANCY.

Acts relating to, see Civil Code, Appendix, title Infancy, p. 775 et seq; Penal Code, Appendix, title Infancy, p. 570.

Gen Laws—33.

*Rev CC 609 a*  
*Ret 172*

## TITLE 129.

## INSANE.

1. Generally.
2. Stockton Asylum.
3. Napa Asylum.
4. Southern California.
5. Mendocino.
6. Agnews.

## 1. Generally.

An act to prevent the overcrowding of asylums for the insane.

[Approved March 9, 1885; Stats. 1885, p. 35.]

Discharge of those improperly committed.

Section 1. No case of idiocy, imbecility, harmless chronic mental unsoundness, or acute mania-a-potu, heretofore or hereafter committed to either of the state asylums for the insane, whenever, in the opinion of the resident physician of any state asylum for the insane at Napa, after a careful examination of the case of any person committed to the asylum of which he is the chief executive officer, it shall satisfactorily appear that such person has been improperly committed, and comes under the rule of exemptions provided for in this act, he shall have the authority, and it shall be his duty, to discharge such person so improperly committed, and return him or her to the county from which committed at the expense of such county; and no person having been so discharged shall be again committed to either of the said asylums, unless permission for such commitment be first obtained from the resident physician or medical superintendent thereof; and in case a person so discharged shall be again committed without such permission, the resident physician or medical superintendent shall refuse to receive such person, and shall not permit such person to be received into the asylum under such commitment.

Sec. 2. All acts and parts of acts in conflict

with the provisions of this act are hereby repealed.

Sec. 3. This act shall take effect from and after its passage.

An act entitled An act to provide for the future management of the state asylums for the insane.

[Approved March 9, 1885; Stats. 1885, p. 32.]

Insane able to pay for support.

Section 1. The judge of the superior court of any county in this state shall inquire into the ability of insane persons, committed by him to the asylum, to bear the actual charges and expenses for the time that such person may remain in the asylum. In case an insane person committed to the asylum under the provisions of this act shall be possessed of real or personal property sufficient to pay such charges and expenses, the judge shall appoint a guardian for such person, who shall be subject to all the provisions of the general laws of the state in relation to guardians, as far as the same are applicable; and when there is not sufficient money in the hands of the guardian, the judge may order a sale of the property of such insane person, or so much thereof as may be necessary, and from the proceeds of such sale the guardian shall pay the board of trustees the sum fixed upon by them each month, quarterly in advance, for the maintenance of such ward; and he also shall, out of the proceeds of such sale, or such other funds as he may have belonging to such ward, pay for such clothing as the resident physician shall, from time to time, furnish such insane person; and he shall give a bond, with good and sufficient sureties, payable to the board of trustees, and approved by the judge, for the faithful performance of the duties required of him by this act, as long as the property of his insane ward is sufficient for the purpose. If indigent insane persons have kindred of degree of husband or wife, father, mother, or children, living within this state, of sufficient ability, who are otherwise liable, said kindred shall support such indigent insane person to the extent prescribed



for paying patients. The board of trustees shall furnish such blank bonds as are required by this section, to the several judges in this state. A breach of any bond provided for in this act may be prosecuted in the superior court of any county in this state in which any one of the obligors may reside, and the same shall be prosecuted by the district attorney of the county in which the action shall be brought, and shall be conducted throughout, and the judgment enforced, as in a civil action for the recovery of a debt. Should there remain in the hands of the board of trustees, or their treasurer, at the time any insane person is discharged, any money unexpended, so paid by the guardian or kindred, the same shall be refunded; provided, that the board of trustees shall not be required to refund any money for a fraction of a month; but upon the death of any insane person, after paying the ordinary burial expenses, the remainder of any moneys received from the guardians, or on deposit with the board of trustees or their treasurer, shall be refunded to the person or persons thereto entitled, on demand. Any moneys found on the person of any insane person at the time of arrest shall be certified to by the judge and sent with such person to the asylum, there to be delivered to the treasurer, to be applied to payment of the expenses of such person while in the asylum; but upon the recovery of such insane person, all sums remaining, after deducting such expenses, shall be returned to such person when discharged from the asylum. All moneys belonging to the state, received by the board of trustees, other than that appropriated by the state, shall be kept by said trustees in a separate fund, to be known as a contingent fund, and the same shall, by the said trustees, be expended at such times and in such manner as to the said board appears for the best interest of said asylum, and for the improvement thereof, and of the grounds and buildings therewith connected. A full, strict, and itemized account of all such receipts and expenditures shall be included in the biennial report of said board of trustees. The kindred or friends of an inmate of the asylum may receive such inmate therefrom on their giving satisfactory evidence to the judge of the

court issuing the commitment that they, or any of them, are capable and suited to take care of and give proper care to such insane person, and give protection against any of his acts as an insane person. If such satisfactory evidence appear to the judge, he may issue an order, directed to the trustees of the asylum, for the removal of such person; but the trustees shall reject all other orders or applications for the release or removal of any insane person, except the order of a court or judge on proceeding in habeas corpus; and if, after such removal, it is brought to the knowledge of the judge by verified statement that the person thus removed is not cared for properly, or is dangerous to persons or property by reason of such want of care, he may order such person returned to the asylum.

Sec. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall take effect immediately.

An act to provide for the maintenance, support, and discharge in certain cases of insane persons confined in the state asylum for the insane, and for the control and management of a resulting contingent fund.

[Approved March 19, 1889; 1889, 329.]

Inquiry as to ability of insane person to support himself.

Section 1. It shall be the duty of the sheriff of any county in this state, or other officer, immediately upon arresting any person charged with being insane, to notify the district attorney of the county in which said arrest is made of the fact of such arrest, and it shall be the duty of the district attorney of any county in this state, at the time of the commitment of an insane person to any state asylum of this state for the insane, by the judge of the superior court of such county, to make diligent inquiry into the ability of such insane person to bear the actual charges and expenses of maintenance and support for the time that such person may remain in the asylum, and said district

attorney shall forthwith notify the board of trustees, or board of directors, as the case may be, of the asylum to which such insane person shall be committed, of the result of such inquiry.

Application for appointment of guardian.

Sec. 2. In case such insane person shall be, or shall thereafter become, the owner of property, real, personal, or mixed, it shall be the duty of the district attorney of the county from which such person shall have been committed, in case such insane person has no general guardian, to apply to the judge of the superior court making the order of commitment, for the appointment of a general guardian of the person and estate, or either, of such insane person; such application and appointment to be made in the manner as provided by the codes of this state for the application for appointment and appointment of guardians of infants and incompetent persons.

Hearing of application.

Sec. 3. At the hearing of such application witnesses may be subpoenaed as in civil cases, and examined under oath to determine the character and value of the property of such insane person. Upon proof of the existence of property—real, personal, or mixed—belonging to such insane person, the judge or court hearing the application shall appoint a general guardian of the person and estate, or either, for such person, who shall be subject to all the provisions of the codes and general laws of this state in relation to guardians in other cases, as far as the same may be applicable. If at any time there is not sufficient money in the hands of the guardian to pay the cost of the maintenance and support of said insane person, as hereinafter provided, and said insane person has other property, the judge of said superior court, or court, shall, upon the application of the guardian, or in case he shall neglect to apply, of the president of the board of directors or board of trustees; as the case may be, of the asylum to which such insane person has been committed or removed, order a sale of the property of such insane person, or so much thereof as may be necessary to pay the charges and expenses of maintaining and supporting such insane person at said

asylum, said order to direct what property shall be sold. Such sale to be made in the manner provided in the codes of this state for the sale of property and estates of deceased persons.

Guardian to pay.

Sec. 4. From the proceeds of such sale, or from such other funds as the guardian may have belonging to such insane person, he shall pay to the board of trustees or board of directors, as the case may be, of the asylum to which such insane person has been committed, or to which he or she may have been removed, the sum per month fixed upon by them quarterly in advance for the maintenance and support of such insane person; and he shall also, out of the proceeds of such sale or such other funds as he may have belonging to such insane person, pay for such clothing as the medical superintendent or resident physician of such asylum shall from time to time furnish to such insane person.

Bond of guardian.

Sec. 5. The guardian of such insane person shall give a bond, with two good and sufficient sureties, payable to the board of trustees or board of directors, as the case may be, of the asylum to which such insane person has been committed or removed, and approved by the judge of said superior court for the faithful performance of his duties as such guardian.

Secretary of state to furnish blank bonds.

Sec. 6. The secretary of state, under the advice and instruction of the attorney-general, shall have printed and furnish such blank bonds as are required by this act to the several superior courts of this state.

Prosecution for breach of bond.

Sec. 7. A breach of any bond provided for in this act may be prosecuted by the board of trustees or board of directors, as the case may be, of the asylum to which such insane person has been committed or removed, in their own names, in the superior court of any county in this state, in which any one of the obligors may reside, and in which the action shall be brought, and shall be conduct-

ed throughout, and the judgment therein enforced, as in a civil action for the recovery of a debt. Kindred to support indigent insane.

Sec. 8. If indigent insane persons have kindred of degree of husband, wife, children other than minors, father, or mother, living within this state, of sufficient pecuniary ability, who are otherwise liable, such kindred, in the order above named, shall support such indigent insane person by paying to the board of directors or board of trustees, as the case may be, of the asylum to which such insane person has been committed or removed, the sum per month fixed on by them, quarterly in advance, for the maintenance and support of such indigent insane person, and such kindred, in the order above named, shall also pay for the clothing as the resident physician of such asylum shall from time to time furnish to such indigent insane person.

Action may be brought for failure of kindred to comply.

Sec. 9. For a failure to perform the duty devolving upon such kindred under the provisions of this act, an action may be brought by the board of trustees or board of directors, as the case may be, of the asylum to which such insane person has been committed or removed, in their own names, against said kindred, in the order above named. Such action may be prosecuted in the superior court of any county in this state in which said kindred, or either of them, may reside, and in which the action shall be brought, which action shall be conducted throughout, and the judgment therein enforced, as in a civil action for the recovery of a debt.

Money refunded on discharge of patient.

Sec. 10. Should there remain in the hands of the board of trustees or board of directors, as the case may be, of any asylum for the insane, or in the hands of their treasurer, at the time any insane person is discharged, any money expended, so paid by the guardian or kindred, the same shall be refunded; provided, that the board of trustees, or board of directors, as the case may be, of said asylums, shall not be required to refund any money for a fraction of a month; but

upon the death of any insane person, after paying the ordinary burial expenses, the remainder of any moneys received from the guardian or kindred, or on deposit with the board of directors or board of trustees, as the case may be, of such asylum, or on deposit with their treasurer, shall be refunded to the person or persons thereto entitled, on demand. Any moneys found on the person of any insane person at the time of arrest shall be certified to by the judge, and sent with such person to the asylum, there to be delivered to the treasurer of the board of directors or board of trustees, as the case may be, of such asylum, to be applied to the payment of the expenses of such person while in the asylum, but upon the recovery of such person, all sums remaining, after deducting such expenses, shall be returned to such person when discharged from the asylum.

Money so received to be kept separate.

Sec. 11. All moneys belonging to the state received by the board of directors or board of trustees, as the case may be, of any state asylum for the insane, other than that appropriated by the state, shall be kept by said board in a separate fund, to be known as the contingent fund, and the same shall by the said board be expended at such times and in such manner as to the said board appears for the best interest of such asylum, and for the improvement thereof, and of the grounds and buildings therewith connected. A full, strict, and itemized account of all such receipts and expenditures shall be included in the biennial report of said board.

When inmate may be delivered to care of others.

Sec. 12. The kindred, guardian, or friends of an inmate of any state asylum for the insane may receive such inmate therefrom on their giving satisfactory evidence to the judge of the court issuing the commitment that they or any of them are capable and suited to take care of and give proper care to such insane person, and give protection against any of his acts as an insane person. If such satisfactory evidence appear to the court or judge, he may issue an order directed to the medical superintendent or resident physician, as the case may be, of such asylum, for the removal of such person; but the medical superintendent or



resident physician, as the case may be, shall reject all other orders or applications for the release or removal of any insane person, except the order of a court or judge on proceedings in habeas corpus; and if after such removal, it is brought to the knowledge of the judge by verified statement that the person thus removed is not cared for properly, or is dangerous to persons or property by reason of such want of care, the judge may order such person returned to the same asylum.

Act construed.

Sec. 13. This act shall not be so construed as to invalidate any existing claim occurring under the provisions of any prior statute in conflict with the provisions of this act.

Sec. 14. All acts in conflict with the provisions of this act are hereby repealed.

Sec. 15. This act shall take effect immediately.

An Act to establish a State Lunacy Commission, to provide a uniform government and management of the state hospitals for the insane, and to provide for the care, custody, and apprehension of persons believed to be insane, and the commitment of insane persons, and providing for the transfer of unexpended appropriations of moneys and properties.

[Stat. approved March 31, 1897, Stats. 1897; chap. ccxxvii.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

## ARTICLE I.

### State Commission in Lunacy.

Section 1. This act shall be known as the insanity law.

Sec. 2. When used in this chapter, the term "poor person" means a person who is unable to maintain himself and has no one legally liable and able to maintain him; the term "an indigent person" means one who has not sufficient property to support himself while insane and the members



of his family lawfully dependent upon him for support; the term "institution" means any hospital, asylum, building, house, or retreat, authorized by law to have the care, treatment, or custody, of the insane; the term "commission" means the State Commission in Lunacy; the term "patient" means an insane person committed to an institution according to the provisions of this chapter.

Sec. 3. The State Commission in Lunacy is hereby created, and shall consist of five commissioners, as follows: Three of such commissioners shall be the State Board of Examiners, who are hereby constituted *ex officio* members of such commission. In the absence of the governor from any meeting of such commission, the secretary of the State Board of Examiners shall act in his place and stead, and with the same force and effect, and to such extent shall be an *ex officio* member of such commission. In the absence of the attorney-general at any meeting of the Commission in Lunacy, the assistant attorney-general shall be a member of such commission, and act to the same effect, and have the same power and authority as would the attorney-general were he so present. A fourth member of such Commission in Lunacy, and who shall be the general superintendent of the state hospitals of California, shall be a reputable physician, a graduate of an incorporated medical college, with at least ten years' experience in the actual practice of his profession, and who has had six years' actual experience in the care and treatment of the insane, at least one year of which must have been in the state hospitals of California. The fifth member of the commission shall be the secretary of the State Board of Health, who shall be *ex officio* a member of such commission. The salary of the general superintendent of the state hospitals for the insane shall be four thousand dollars per annum, but shall not be changed during his term of office. He shall also be allowed his actual traveling and incidental expenses, the same to be audited by the other members of the commission. The remaining members of the commission shall serve without salary. The general superintendent of the state hospitals for the insane shall be appoint-

ed by the governor immediately after the passage of this act, and shall hold no other office, and his term of office shall be four years from the date of his commission, and until his successor is appointed and qualified.

Sec. 4. The commission shall be provided by the secretary of state with a suitable furnished office in the state capitol, where it shall hold stated meetings at least once in three months. It may hold other meetings, at such office or elsewhere, as it may deem necessary. It may employ a secretary, a stenographer, and such other employees as may be deemed necessary. The salaries and reasonable expenses of the commission and of the necessary clerical assistance shall be paid by the treasurer of the state on the warrant of the controller, and out of any moneys appropriated for the support of the insane; said expenses and salaries shall be paid pro rata from the amount appropriated for the maintenance of each state hospital.

Sec. 5. The commission shall have an official seal. Every process, order, or other paper issued or executed by the commission, may, by the direction of the commission, be attested, under its seal, by its secretary or by any member of the commission, and when so attested shall be deemed to be duly executed by the commission.

Sec. 6. The commission is charged with the execution of the laws relating to the care, custody, and treatment of the insane, as provided in this act, not including feeble-minded persons and epileptics, as such, and idiots. They shall examine all public institutions authorized by law to receive and care for the insane, and inquire into their methods of government and the management of all such persons therein. They shall examine into the condition of all buildings, grounds, and other property connected with such institutions, and into all matters relating to its management. For such purpose each commissioner shall have free access to the grounds, buildings, and all books and papers relating to any such institution. All persons connected with any such institution shall give such information and afford such facilities for any such examination or inquiry as the commissioners may require. The commis-

sion may, by order appoint a competent person to examine the books, papers, and accounts, and also into the general condition and management of any institution to the extent deemed necessary and specified in the order.

Sec. 7. The general superintendent for the state hospitals for the insane shall visit every institution at least twice in each year. Such visits may be made jointly, or by a majority of the commission, on such days and at such hours of the day or night, and for such length of time as the visiting commissioner, or commissioners, may choose. But each commissioner may make such other visits as he, or the commission, may deem necessary. Each visit shall include, to the fullest extent deemed necessary, an inspection of every part of each institution, and all the out-houses, places, buildings, and grounds belonging thereto, or used in connection therewith. The president of the commission, or a majority of the members thereof, shall from time to time make an examination of all records and methods of administration, the general and special dietary, the stores and methods of supplies, and, as far as the circumstances will permit, of every patient confined therein, especially those admitted since the preceding visit, giving such as may require it, suitable opportunity to converse with the commissioners, apart from the officers and attendants. They shall, as far as they deem necessary, examine the officers, attendants, and other employees, and make such inquiries as will determine their fitness for their respective duties. At the next regular or special meeting of the commission, after any such visit, the visiting commissioner, or commissioners, shall report the result thereof, with such recommendations for the better management or improvement in such institutions as they may deem necessary. But such recommendations shall not be contrary to the medical doctrines of the particular school of medicine adopted by such institutions. The commissioners shall, from time to time, meet the managers or responsible authorities of such institutions, or as many of the members as practicable, in conference, and consider, in detail, all questions of management and improvement of the institutions, and shall

also send to them, in writing, if approved by a majority of the commissioners, such recommendations in regard to the management and improvement of the institutions as they may deem necessary or desirable.

Sec. 8. The commission shall make such regulations in regard to the correspondence of the insane in custody as in its judgment will promote their interests, and it shall be the duty of the proper authorities of each institution to comply with and enforce such rules and regulations. All such insane shall be allowed to correspond, without restriction, with the superior judge and district attorney of the county from which they were committed. The by-laws, rules and regulations, books of record, and for steward's department, blank forms, both clinical and otherwise, questions for examination of employees, and questions for competitive examination in all the different branches of medicine and surgery, and specially in diseases affecting the mind and nervous system, of all assistant physicians and internes, otherwise than the first and second assistants, for the special use of the hospitals, shall be uniform for all hospitals, and shall be approved by the commission.

Sec. 9. Any physician who receives a certificate as a medical examiner in lunacy shall file such original certificate in the office of the clerk of the county where he resides, and forward a certified copy thereof to the office of the commission within ten days after such certificate is granted. The commission shall keep in this office a record showing the name, residence, and certificate of each duly qualified medical examiner, and shall immediately file in its office, when received, each duly certified copy of a medical examiner's certificate, and advise the examiner of its receipt and filing. No examiner shall be qualified until he has received from the commission an acknowledgment of the receipt and filing of his certificate.

Sec. 10. The commission shall keep in its office a record showing:

1. The name, residence, sex, age, nativity, occupation, civil condition, and date of commitment of every patient in custody in the several institutions for the care and treatment of insane persons

in the state, and the name and residence of the person making the petition for commitment, and of the persons signing such medical certificate, and of the judge making the order of commitment;

2. The name of the institution where each patient is confined, the date of admission, and whether brought from home or another institution, and, if from another institution, the name of such institution, by whom brought, and the patient's condition;

3. The date of the discharge of each patient from such institution since the first of July, eighteen hundred and ninety-six, and whether recovered, improved, or unimproved, and to whose care committed;

4. If transferred, for what cause, and to what institution; and if dead, the date and cause of death.

Sec. 11. The authorities of the several institutions for the insane shall furnish to the commission the facts mentioned in the last preceding chapter, and such other obtainable facts relating thereto as the commission may, from time to time, in the just and reasonable discharge of its duties, require of them, with the opinion of the superintendent thereon, if requested. The superintendent, or person in charge of state hospitals, must, within ten days after the admission of an insane person thereto, cause a true copy of the medical certificate and order on which such person shall have been received, to be made and forwarded to the office of the commission; and when a patient shall be discharged, transferred, or shall die therein, such superintendent, or person in charge, shall, within three days thereafter, send the information to the office of the commission, in accordance with the forms prescribed by it.

Sec. 12. The commission shall report and recommend to the Legislature the necessary prospective needs for the care, custody, and treatment of the poor and indigent insane. To prevent overcrowding in the state hospitals, it shall recommend to the Legislature the establishment of cottages at such of the now existing state hospitals as in their judgment will best meet the requirements of such insane. It shall also furnish to the Legislature an estimate of the probable

number of patients who will become inmates of the respective state hospitals during the two years beginning July first next ensuing, and the cost of all additional buildings and equipments, if any, which will be required to carry out the provisions of this chapter relating to the care, custody, and treatment of the poor and indigent insane of the state. No money shall be expended by the managers of a state hospital for the erection of additional buildings, or for unusual repairs or improvements of state hospitals, except upon plans and specifications approved by the commission. The cost of such buildings as are to be occupied by patients, erected on the grounds of existing state hospitals including the necessary equipment for heating, lighting, ventilating, fixtures, and furniture, shall in no case exceed the proportion of five hundred and fifty dollars per capita for the patients to be accommodated therein.

Sec. 13. The commission shall, biennially, report to the legislature its acts and proceedings for the two years ending June thirtieth last preceding, with such facts in regard to the management of the institutions for the insane as it may deem necessary for the information of the legislature, including estimates of the amounts required for the use of the state hospitals, and the reasons therefor; and also the annual reports made to the commission by the board of managers of each state hospital.

## ARTICLE II.

### Institutions for the Care, Custody, and Treatment of the Insane.

Section 1. There are hereby established the following hospitals for the care and treatment of the insane of the state of California, which are hereby declared to be corporations:

First—The Stockton State Hospital at the city of Stockton, in the county of San Joaquin, hitherto known as the Stockton State Insane Asylum at Stockton, and all property now belonging to said Stockton State Insane Asylum, and all moneys to its credit with the state controller and



state treasurer are hereby transferred to the Stockton State Hospital at Stockton, and the state controller and the state treasurer are hereby authorized to make such transfer.

Second—Napa State Hospital, near the city of Napa, county of Napa, hitherto known as the Napa State Asylum for the Insane at Napa, and all properties now belonging to said Napa State Insane Asylum for the insane, and all moneys to its credit with the state controller and state treasurer are hereby transferred to the Napa State Hospital at Napa, and the state controller and the state treasurer are hereby authorized to make such transfer.

Third—Agnews State Hospital, near the city of San Jose, Santa Clara county, hitherto known as the State Insane Asylum at Agnews, and all property now belonging to said State Insane Asylum at Agnews, and all moneys to its credit with the state controller and the state treasurer are hereby transferred to the Agnews State Hospital at Agnews, and the state controller and the state treasurer are hereby authorized to make such transfer.

Fourth—Mendocino State Hospital, near the city of Ukiah, county of Mendocino, hitherto known as the Mendocino State Insane Asylum at Ukiah, and all moneys to its credit with the state controller and the state treasurer are hereby transferred to the Mendocino State Hospital at Ukiah, and the state controller and the state treasurer are hereby authorized to make such transfer.

Fifth—Southern California State Hospital, near the city of San Bernardino, San Bernardino county, hitherto known as the Southern California State Insane Asylum for the insane and inebriates, San Bernardino, and all property now belonging to said Southern California State Insane Asylum for the Insane and Inebriates, San Bernardino, and all moneys to its credit with the state controller and state treasurer are hereby transferred to the Southern California State Hospital, San Bernardino county, and the state controller and the state treasurer are hereby authorized to make such transfer.

Sec. 2. Each state hospital shall be under the



control and management of a board of managers or trustees, subject to the statutory powers of the commission, and to the provisions of this act. Such trustees or managers shall hereafter be termed managers. Each hospital shall have a board of five managers, the different members of which shall be appointed by the governor on or before the first day of January following the expiration of the terms of office of the trustees now in office, and after this act takes effect; each manager to serve for a period of four years, and until his successor is appointed and qualified, so that after the expiration of the term of the present managers, the terms shall expire not to exceed two each year. If a vacancy occur otherwise than by expiration of term, the appointment of a manager to fill such vacancy shall be for the unexpired term of the manager whose office is vacant.

Sec. 3. The managers, and their successors appointed after the appointment and classification made pursuant to the preceding section, shall severally be appointed by the governor, as often as a vacancy shall occur, or otherwise; and they may severally continue in office until their successors are appointed and qualified, and they shall be subject to removal by the governor, upon cause shown and an opportunity to be heard. No person shall be eligible to the office of manager who is either an elective state officer or a member of the legislature, and if any such manager shall become a member of the legislature or an elective state officer, his office as manager shall be vacant. If any manager fails for three months to attend the regular meetings of the board of which he is a member, unless he be ill or absent from the state, his office shall be vacant, and the board, by resolution, shall so declare, and a certified copy of every such resolution shall forthwith be transmitted to the governor.

Sec. 4. Subject to the statutory powers of the commission, each board of managers shall have the general direction and control of all the property and concerns of the institution over which they are respectively appointed, not otherwise provided by law. They may acquire and hold, in the name of and for the people of the state of

California, by grant, gift, or bequest, property to be applied to the maintenance of insane persons and for the general use of the hospital. All lands necessary for the use of state hospitals shall be acquired by condemnation as lands for public use are acquired, except those by gift, devise, or purchase, the terms of which purchase shall be approved by the commission. No public street, or road for railroad or other purposes, except for hospital use, shall be open through the lands of the state hospital, unless the legislature, by special enactment, consents thereto. The managers shall receive ten dollars per day for attendance at meetings, and while in the actual service of the state, and their necessary traveling and other expenses, to be paid as other current expenditures of the hospital. They shall:

1. Take care of the interests of the hospital, and see that its design and its by-laws, rules, and regulations, are carried into effect, according to law;

2. Establish such by-laws, rules, and regulations, subject to the approval of the commission, as they may deem necessary and expedient for regulating the appointment and duties of officers and employees of the hospital, and for the internal government, discipline, and management of the same;

3. Maintain an effective inspection of the hospital, for which purpose a majority of the board shall visit the hospital at least every month, and the whole board once a year, and at such other times as may be prescribed in the by-laws;

4. Keep, in a book provided for the purpose, a fair and full record of their doings, which shall at all times be open to the inspection of the commissioners in lunacy, or either house of the legislature, to examine the same;

5. Cause to be typewritten, within ten days after each meeting of such managers, or a committee thereof, the minutes and proceedings of such meeting, and cause a copy thereof to be sent forthwith to each member of such board and to the commission;

6. Enter, in a book kept by them for that purpose, the date of each of their visits, and the condition of the hospital and patients, and all such managers present shall sign the same;

7. Make to the commission, on or before the fifteenth day of August, of each year, a detailed report of their visits and inspection, with suitable suggestions and such other matters as may be required of them by the commission, for the year ending on the thirtieth day of June preceding such date of such report.

Sec. 5. Each board of managers shall continue to appoint, for its hospital, as often as vacancies occur therein:

1. A medical superintendent, who shall be a well-educated physician, a graduate of an incorporated medical college, of good moral character, and who has had not less than three years' experience in the care and treatment of the insane. The medical superintendent, and all the assistant physicians, of the homeopathic hospital for its insane, shall be homeopathic physicians. Its superintendent shall be a well-educated physician, a graduate of an incorporated medical college, of good moral character, and who has had not less than three years' experience in the care and treatment of the insane in hospitals for the treatment of the insane;

2. A treasurer, who shall be ex officio secretary of the board of managers, who shall keep all the books, records, and papers pertaining to the business of his office, in an office situated where the board of managers may direct, who shall give an undertaking to the people of the state for the faithful performance of his trust, with sureties to be approved by a judge of the superior court, or a justice of the supreme court, of the judicial district in which such hospital is located, and in such amount as the board shall name.

Any medical superintendent, or any treasurer, may be removed by a four-fifths vote of the board of managers, for cause, stated in writing, and after an opportunity having been given him to be heard, and which removal shall be final.

Sec. 6. The medical superintendent of each hospital shall be its chief executive officer, and in his absence or sickness, the first assistant physician or other officer designated by the medical superintendent shall perform the duties and be subject to the responsibilities of the superintendent. Subject to the by-laws, rules, and regulations estab-

lished by the board of managers, the medical superintendent shall have the general superintendence of the buildings, grounds, and farm, together with their furniture, fixtures, and stock, and the direction and control of all persons therein, and shall:

(a) Personally maintain an effective supervision and inspection of all parts of the hospital, and generally direct the care and treatment of the patients. To this end the superintendent shall personally examine the condition of each patient within five days after his admission to the hospital, and shall visit all the wards or apartments for patients at such times as the rules and regulations of the hospital shall prescribe;

(b) Appoint, by and with the consent of the board of managers, assistant physicians, one of whom shall be a woman; provided, there are three other assistant physicians; and internes, the number to be determined by the commission, as follows:

1. A first assistant physician, who shall be well educated in his profession, a graduate of an incorporated medical college, of good moral character, and who has had not less than two years' experience in the care and treatment of the insane;

2. A second assistant physician, who shall be well educated in his profession, a graduate of an incorporated medical college, of good moral character, and who has had not less than one year's experience in the care and treatment of the insane.

3. Assistants, other than the first and second, and internes, who shall be well educated in their profession, graduates of an incorporated medical college, of good moral character, and subject to competitive examination in all the different branches of medicine and surgery, and specially in diseases affecting the mind and nervous system; the questions for such examination to be prepared by the general superintendent, subject to the approval of the commission;

4. At the homeopathic state hospital, a first and second assistant physician, each a graduate of an incorporated medical college of the homeopathic school of medicine. They shall be practi-

tioners of good moral character; the first assistant shall have had not less than two years' experience, and the second assistant not less than one year's experience, in the care and treatment of the insane in hospitals for the treatment thereof;

5. A supervisor, matron, and steward, and all employees, who shall be subject to such an examination as he deems for the best interests of the hospital, the questions to be prepared by the superintendent, subject to the approval of the commission;

6. The medical superintendent may remove any resident officer or employee for cause, pending the meeting of the board of managers. The removal of employees, other than resident officers, shall be reported to the board of managers for their action, which shall be final, and in the case of resident officers notice in writing must be immediately given to the resident officer removed, and to each member of the board of managers. At the next meeting of the board of managers, or at the meeting to which it has been regularly postponed, such removal shall be considered and the person removed be heard, after which the managers shall determine what shall be done in the matter, which judgment shall be final. If the officer or employee be removed, the superintendent shall make a record thereof, with the reasons therefor, under the appropriate head in one of the books of the hospital. Any officer or employee of a state hospital taking an active part in politics, either directly or indirectly, shall be summarily removed from such hospital. The board of managers may remove any officer or employee from such hospital, and any officer or employee thus removed shall not be reinstated, except by a majority vote of the board of managers and the medical superintendent;

7. The superintendent, assistant physicians, steward, supervisor, and matron, shall reside in the hospital or on the premises, and shall be designated the resident officers of the hospital;

(c) Transmit, by mail, to the State Lunacy Commission, within five days after such discharge has been approved by the board of managers, information of any such discharge, and the cause thereof. The commission shall preserve the name of any such officer, or employee, with the facts

relating to his discharge, in a book provided for that purpose;

(d) Give such orders and instructions as he may deem best calculated to insure good conduct, fidelity, and economy in every department of labor and expense;

(e) Maintain salutary discipline among all who are employed in the institution, and enforce strict compliance with his instructions and uniform obedience to all rules and regulations of the hospital;

(f) Cause full and fair accounts and records of the entire business and operations of the hospital, to be kept regularly, from day to day, in books or forms provided for that purpose; .

(g) See that all such accounts and records are fully up to the last day of June in each year, and that the principal facts and results with his report thereon, be presented to the managers within thirty days thereafter, who shall incorporate it in their report to the commission;

(h) Keep a book, in which he shall cause to be entered at the time of reception of any patient, his name, residence, and occupation, and the date of such reception, by whom brought, and by what authority, and on whose petition committed, and an abstract of all orders, warrants, requests, petitions, certificates, and other papers accompanying such person;

(i) The medical superintendent shall be required to prepare and keep the payrolls of the hospitals, and to collect all moneys; keep the accounts for the support of the patients, and expenses incurred in their behalf; furnish the treasurer statements thereof as they fall due; turn all moneys collected over to the treasurer, and report same to the board of managers at each meeting; notify the treasurer of the death or discharge of reimbursing or pay-patients, within five days after such death or discharge;

(j) Prepare triplicate estimates of the amount, kind, and quality of furniture and household furnishing goods, provisions, fuel, forage, clothing, or material for clothing, and other material required for the twelve months ending June thirtieth of each year, which shall be approved by the board of managers, unless a different time be allowed by the commission. He shall submit two of the



triplicate estimates to the commission, and file the third in his office. The commission may revise the estimate for supplies, either as to quality or quantity thereof, and shall certify that it has carefully examined the same, and that the articles contained in such estimate, as approved by it, are actually required for the use of the hospital; whereupon, after having approved the estimates, the commission shall, upon the fifteenth day of May preceding the month ending June thirtieth, advertise, for four successive weeks, for contracts for furnishing such supplies; said advertisement being in brief, referring to the class of supplies and the fact that all contemplated bidders can receive schedules by applying to the superintendents or secretaries of the various hospitals, or the state commission. All contracts shall be awarded to the lowest responsible bidder, or bidders, upon their giving to the board of managers a bond, amounting to one-fourth of their actual bids, as security for the faithful performance of the same. The board of managers reserve the right to reject any and all bids submitted to them;

(k) Prepare triplicate estimates, as approved by the board of managers, two of which must be submitted to the commission, and the other filed in the superintendent's office, for necessary expenditures other than those for provisions, fuel, forage, clothing, or material for clothing, furniture, and household furnishing goods. The commission may revise these estimates for supplies, either as to the quality or quantity thereof, and shall certify that they have been carefully examined, and that the articles contained in such estimates, as approved by it, are actually required for the use of the hospital; whereupon the board of managers shall direct the superintendent to secure the supplies according to the approved estimates.

Sec. 7. The medical superintendents of the several state hospitals, or their representatives, and, in the discretion of each board of managers, one member of each board, to be designated by it, shall meet at least every three months, on a day to be appointed by the commission, at the office of the commission, or at such other place as may be designated by it, to consult with such com-



mission with reference to matters relating to the care and maintenance of the state hospitals.

Sec. 8. The commission shall fix the annual salaries of the resident officers and treasurer of the state hospitals, which shall be uniform in all the state hospitals. They shall classify the other officers and employees in grades, and determine the salaries and wages to be paid in each grade, which shall be uniform in all the state hospitals. The salaries and wages shall be included in the monthly estimates, and paid in the same manner as other expenses of the state hospitals. The medical superintendents and the assistant physicians, each of them and their families, shall be furnished room, household furniture, laundry service, drugs when ill, provisions, fuel, and lights, at and from the supplies of the hospital.

Sec. 9. The medical superintendent of each hospital shall, on or before the fifteenth day of each quarter, cause to be prepared triplicate estimates in minute detail, as approved by the board of managers, of the expenses required for the hospital of which he is superintendent, for the ensuing quarter. He shall submit two such triplicate estimates to the commission and file the third in his office. The commission may revise estimates for supplies or other expenditures, either as to the quality or quantity thereof, and shall certify that it has carefully examined the same, and that the articles contained in such estimates, as approved and revised by it, are required for the use of the hospital; whereupon, the board of managers, after having received the approved estimates, shall make drafts upon the state controller, as the money may be required for the purposes mentioned in such approved estimates, which drafts shall be paid upon the warrant of the controller out of the funds in the treasury of the state held for the care of the insane and the maintenance of the state hospitals.

Sec. 10. All moneys received by the board of managers of any state hospital, other than that appropriated by the state, shall be kept by said board, in a separate fund, named the contingent fund; and the same shall, by the said board, be expended for such supplies, expenses, buildings, and improvements, as are required for the best

interests of such hospital, and for the improvement thereof, and of the grounds and buildings connected therewith. The medical superintendent shall make triplicate estimates, in minute detail, as approved by the board of managers, of such supplies, expenses, buildings, and improvements, two of which must be submitted to the commission, and the third placed on file in his office. The commission may revise the estimates of such supplies, and shall certify that it has carefully examined the same, and that the supplies, expenses, buildings, and improvements contained in such estimates, as approved by it, are required for the best interests of such hospital; whereupon, the board of managers, after having received the revised and approved estimates, shall proceed to purchase such supplies, make such expenditures, or construct such improvements or buildings without further authority, and if approved shall make a draft or drafts upon the treasurer of such hospital, as the money may be required for the purposes mentioned in such estimates, which draft or drafts shall be paid by the treasurer out of any money contained in the contingent fund to be used for the above-mentioned purposes. The building act of eighteen hundred and seventy-six shall not apply to any improvement, structure, or building made under the provisions of this act.

Sec. 11. The treasurer of each hospital shall:

1. Have the custody of all moneys received from the state or elsewhere, for the benefit of the hospital, or any of its inmates, and keep an accurate account thereof.

2. Have the custody of all bonds, notes, mortgages, and other securities and obligations belonging to the hospital.

3. Receive all money for the care and treatment of patients, and other sources of revenue to the hospital.

4. Deposit all such money in a bank designated by the managers, conveniently near the hospital, in his name, as treasurer, and send each month, to the commission and to the board of managers, a statement showing the amount so received and deposited, and from whom and for what received, and when such deposits were made. Such statement of deposit shall be certified by the proper of-

ficer of the bank receiving such deposit. The treasurer shall make an affidavit to the effect that the sum so deposited is all the money received by him, from any source of hospital income, up to the time of the last deposit appearing on such statement. The bank designated by the board of managers to receive such deposits shall, before any deposit is made, execute a bond to the people of the state, in a sum approved by the board of managers, for the safe keeping of the funds deposited.

5. Pay out the money deposited for the uses of the state hospital, upon the voucher of the steward, approved by the superintendent, in accordance with the estimates made by the superintendent, and revised and approved by the board of managers and by the commission.

6. Keep full and accurate accounts of all receipts and payments in the manner directed in the by-laws, and according to books and forms approved, prescribed, and furnished by the commission.

7. Balance all accounts on his books annually, on the last day of June, and make a statement thereof, and an abstract of the receipts and payments of the past year, and deliver the same, within ten days, to the finance committee of the managers, who shall compare the same with the books and vouchers, and verify the results by further comparison with the books of the steward, and certify in regard to the correctness thereof, to the managers at their next meeting.

8. Render an account to the state of the books and the funds, and other property in his custody, whenever required by the managers, or by the commission.

9. Upon the order of the board of managers, execute a release and satisfaction of a mortgage, judgment, or other lien or debt, in favor of the hospital, when the same has been paid.

Sec. 12. The treasurer of each state hospital shall, on or before the fifteenth day of each quarter, make to the board of managers, and to the commission, a full and perfect statement of all the receipts and expenditures, specifying the several items, for the last preceding quarter. Such statement shall be verified by the affidavit of the treasurer attached thereto, in the following form:

I, —, treasurer of the — state hospital, do solemnly declare that I have deposited in the bank designated by law for such purpose, all the moneys received by me on account of the hospital during the last quarter, and I do further swear that the foregoing is a true abstract of all the moneys received, and payments made by me, or under my direction, as such treasurer, during the quarter ending on the — day of —, 18—.

There shall also be attached the affidavit of the steward to the effect that the goods and other articles therein specified were ordered or purchased, and received by him, or under his direction, at the hospital, and that neither he nor any person in his behalf, had any pecuniary or other interest in the articles purchased; that he received no pecuniary or other benefit therefrom in the way of commission, percentage, deductions, or presents, or in any manner whatever, directly or indirectly; that the articles and bills conform in all respects to the invoiced goods received and ordered by him, both in quality and quantity. Such statement shall be accompanied by the vouchers showing the payment of the several items contained in the statement, and approval thereof by the superintendent, the amount of such payments, and for what the payments were made. Such approval may be contained on an audit sheet, which shall refer to each voucher approved by the superintendent, giving the number of voucher, the name of the claimant, and the amount at which it was approved. Such vouchers shall be examined by the board of managers, and by the commission, and compared with the estimates made for the quarter for which the statement is rendered, and, if found correct, shall be indorsed and forwarded by the commission, with the statement, to the state board of examiners. If any voucher is found objectionable, the board of examiners shall indorse their disapproval thereon, with the reasons therefor, and return it to the treasurer, who shall present it to the superintendent for correction, and when corrected, return it to the board of examiners. All such vouchers shall be filed in the office of the state board of examiners.

Sec. 13. The treasurer of any state hospital may, with the consent of the attorney-general,

bring an action, in the name of the hospital, to recover, for the use thereof:

1. The amount due upon any note or bond in his hands, belonging to the hospital;

2. The amount charged and due, according to the by-laws of the hospital, for the support of any patient therein, or for the actual disbursements made in his behalf for necessary clothing and traveling expenses;

3. Upon any cause of action accruing to the hospital.

Sec. 14. General powers and duties of the steward: The steward, under the direction of the superintendent shall be accountable for the careful keeping and economical use of all furniture, and, under the direction of the superintendent, shall make all purchases for the hospital according to the provisions of sections nine and ten and of paragraphs nine and ten of section six, receive the same, and preserve the original bills and receipts therefor, and keep full and accurate accounts of all such proceedings.

Sec. 15. All purchases of supplies for the use of the hospital shall be made for cash, or on credit or time not exceeding sixty days, except by the consent of the state board of examiners; every voucher shall be duly filled up, and with every abstract of vouchers paid, there shall be proof, on oath, that the voucher was properly filled, on oath, the money paid. No expenditure for supplies, or other purposes, shall be made by the board of managers of any state hospital for the benefit of such hospital, by contract or otherwise, unless in conformity with the provisions of this act in relation to estimates. No manager or officer of the hospital shall be interested, directly or indirectly, in the furnishing of material, labor, or supplies for the use of the hospital, nor shall any manager or officer act as an attorney or counsel for such hospital. The state hospitals may manufacture such supplies and materials, to be used in any of such hospitals or other public institutions as can be economically made therein.

Sec. 16. Each superintendent, treasurer, and steward, before entering upon his duties as such, shall take the constitutional oath of office, and file the same in the office of the secretary of state.

Sec. 17. No civil action shall be brought, in any court, against the commission or a commissioner in lunacy, or an officer or manager of a state hospital, because of any act done or failure to perform any act, while discharging their official duties, without leave of the controller first had and obtained. Any just claim for damages against such commission or commissioner, officer or employee, for which the state would be legally or equitably liable, may be paid out of any moneys appropriated for the care of the insane.

Sec. 18. The authorities for each institution of the insane shall place on file in the office of the institution, the recommendations made by the commissioners as a result of their visit, for the purpose of consultation by such authorities, and for reference by the commissioners upon their visit to such institution.

### ARTICLE III.

Section 1. Within sixty days after the passage of this act, the board of supervisors of each county of the state shall provide for and furnish, at or in the city, city and county, or receiving hospitals, situated in each county of the state a suitable room or rooms for the detention, board, care, and treatment of the alleged insane. These rooms, and their furnishings, shall be subject to the approval of the state lunacy commission. This period of detention, board, care, and treatment shall not be less than one, nor more than twenty, days. Upon the completion and furnishing of such room or rooms within the time stated in section one of this article, it shall be the duty of the board of supervisors of each county to report the same to the commission; and it shall be the duty of any person having charge of, or control over, such city or county, county, or receiving hospital, to allow the commission at all times to make such examinations or investigations of such room or rooms, and their furnishings, as they in their judgment deem necessary. This section shall not be construed to mean that insane persons may not be detained, cared for, boarded, and treated in their own homes, homes of friends and relatives, or any licensed pri-



vate hospital, by and with the consent of the state lunacy commission.

Sec. 2. Certificates of lunacy must show that it is the opinion of the medical examiners that the alleged insane person is actually insane, and must be made by two reputable physicians, graduates of an incorporated medical college, who have been in the actual practice of their profession at least five years, and have filed with the commission a certified copy of the certificate of a superior judge, showing such qualifications in accordance with forms prescribed by the commission. Such physicians shall, singly or jointly, make such examinations of the person alleged to be insane as to enable them to form an opinion as to his sanity or insanity. If, after such examinations, they conclude the person is insane, they shall jointly so certify, the date of such certificate being not later than the fifth day of the alleged insane person's detention. Such certificate of lunacy shall be in the form prescribed by the commission, and shall contain the facts and circumstances upon which the opinion of the physicians is based, and show that the condition of the person examined is such as to require care and treatment in an hospital for the care, custody, and treatment of the insane.

Sec. 3. If the application for a commitment has been made by a peace officer, or by the chief officer of any city, city and county, county, or receiving hospital, or by any other person other than a relative or friend of the alleged insane person, notice of such application shall be served upon husband or wife, father or mother, or next of kin of such alleged insane person, if there be any such known to be residing in the county, and if not, upon any person with whom the alleged insane person may reside, or at whose house he may be. Such petition or application shall be accompanied by the certificate of lunacy of the medical examiners, as prescribed in the preceding section. The judge to whom such application is made, may, if no demand is made for a hearing in behalf of the alleged insane person, proceed forthwith to determine the question of insanity, and if satisfied that the alleged insane person is insane, may immediately issue an order for the commitment of such

person to a hospital for the custody and treatment of the insane. If, however, it appears that such insane person is harmless, and his relatives, or a guardian of his person and estate, are willing and able to care for him, at some place other than such hospital, upon their written consent, the judge may order that he be placed in the care and custody of such relative or such guardian. Such judge may, in his discretion, require other proofs in addition to the certificate of the medical examiners. Upon the demand of any relative or near friend in behalf of such alleged insane person, the judge shall, or he may, upon his own motion issue an order directing the hearing of such application before him, at a time not more than three days after the issuance of the medical certificate, and the date of such order, which shall be served upon the parties interested in the application, and upon such other persons as the judge, in his discretion, may name. Upon such day he shall hear the testimony introduced by the parties, and examine the alleged insane person, if deemed advisable, in or out of court, and render a decision in writing as to such person's insanity. If it be determined that such person is insane, the judge shall forthwith issue his order committing him to a hospital for the custody and treatment of the insane, or make such other order as is provided in this section. If such judge cannot hear the application, he may, in his order directing the hearing, name some referee who shall hear the testimony, and report the same forthwith, with his opinion thereon, to such judge, who shall, if satisfied with such report, render his decision accordingly. If the commitment be made to a state hospital, the order shall be accompanied by a written statement of the judge as to the financial condition of the insane person, and of the persons legally liable for his maintenance, as far as can be ascertained. The sheriff shall be immediately notified of such commitment, and he shall at once make provisions for the transfer of such insane person to such hospital. The application for commitment, the certificate in lunacy of the medical examiners, the order directing a further hearing as provided in this section, if one be issued, a typewritten statement of any and all testimony, and

the decision of the judge or referee, and the order of commitment, shall be presented at the time of the commitment to the superintendent or person in charge of the hospital or other place to which the insane person is committed; and verbatim copies shall be forwarded by such superintendent or person in charge, and filed in the office of the state lunacy commission. The relative, or guardian, to whose care and custody any insane person is committed, shall forthwith file the application for commitment, certificate, a type-written statement of any and all testimony and order, in the office of the clerk of the county where such order is made, and transmit a certified copy of such papers to the state lunacy commission, and procure and retain another such certified copy. The superintendent or person in charge of any state hospital for the care and treatment of the insane, may refuse to receive any person upon any order, if the papers required to be presented shall not comply with the provisions of this section, or if, in his judgment, such person is not insane within the meaning of this statute, or if received, such person may be discharged by the commission. No person shall be admitted to any such institution under such order after the expiration of fifteen days from the date of issuance of the medical certificate.

Sec. 4. If a person ordered to be committed, pursuant to this act, or any friend in his behalf, is dissatisfied with the final order of the judge committing him, he may, within five days after the making of such order, demand that the question of his sanity be tried by a jury before the superior court of the county. Thereupon the court shall cause a jury to be summoned, and to be in attendance at a day stated, not less than five, nor more than ten, days, from the date of the demand for a jury trial. At such trial the cause against the alleged insane shall be represented by the district attorney of the county in which the hospital is located; and the trial shall be had as provided by law for the trial of civil cases before a jury, and the alleged insane shall be discharged, unless a verdict that he is insane shall be found by at least three-fourths of the jury trying the cause. Before any order is made, or proceeding taken,

for such trial by jury, such person shall make a deposit, or give a bond, to be approved by a superior judge, for the payment of all costs of the jury trial, if the order of commitment is sustained, unless, in the opinion of such superior judge, the alleged insane person shall be a poor person, as defined under section two, article one, of this act. If the verdict of the jury be that such person is insane, the judge shall certify that fact and make an order of commitment, as upon the original hearing. Such order shall be presented, at the time of commitment of such insane person, to the superintendent or person in charge of the state hospital to which the insane person is committed, and a copy thereof shall be forwarded to the commission by such superintendent or person in charge, and filed in the office thereof. Proceedings under the order shall not be stayed pending the proceedings for determining the question of sanity by a jury, except upon the order of the superior judge, made after one day's notice to the district attorney of the county, and after a hearing, with provisions made therein for such temporary care or custody of the alleged insane person as may be deemed necessary; such temporary care and custody of the alleged insane shall be provided for by the judge of the superior court granting the stay and, if the superior judge by the order granting the stay, shall commit the accused insane to the custody of any person other than a peace officer, he may, by such order, require a bond for his appearance at the trial. If a judge shall refuse to grant an application for an order of commitment of an insane person alleged to be dangerous to himself and others, if at large, he shall state his reasons for such refusal, and any person aggrieved thereby may demand a trial of the question of the insanity of such accused insane, in the manner hereinbefore provided for a jury trial, when demanded by or on behalf of the accused insane. The party demanding a jury trial in this case shall be required to make a deposit of money, or give security for the cost thereof, except as hereinbefore provided for in this section.

Sec. 5. The cost necessarily incurred in determining the insanity of a poor or indigent person and

securing his admission into a state hospital, and the expense of providing proper clothing for such person, in accordance with the rules and regulations adopted by the commission, shall be a charge upon the town, city, county, or city and county securing the commitment. Such costs shall include the fees allowed by the judge ordering the commitment, to the medical examiners. If the person sought to be committed is not a poor and indigent person, the costs of the proceedings to determine his insanity and to secure his commitment, as provided in this section, shall be a charge upon his estate, or shall be paid by the persons legally liable for his maintenance, unless otherwise ordered by the judge. If in such proceedings the alleged insane person is adjudged not to be insane, the judge may, in his discretion, charge the costs of the proceedings to the person making the application for an order of commitment, and judgment may be entered for the amount thereof and enforced by execution against such person.

Sec. 6. Liability for the care, support, and treatment of the insane other than the poor and indigent: The father, mother, husband, wife, or children of an insane person, if of sufficient ability, and the guardian of his person and estate, if his estate is sufficient for the purpose, shall cause him to be properly and suitably cared for and maintained. The commission may inquire into the manner in which any such person is cared for and maintained; and if in the judgment of the commission, he is not properly and suitably cared for, may apply to a judge of the superior court for an order to commit him to an hospital under the provisions of this article, but such order shall not be made unless the judge finds and certifies in the order that such insane person is not properly or suitably cared for by such relative or guardian, or that it is dangerous to the public to allow him to be cared for and maintained by such relative or guardian. The costs and charges of the commitment and transportation of such insane person to a state hospital shall be paid by the guardian, father, mother, husband, wife, or children of such person, to be recovered in an action brought in the name of the people by the commission.

Sec. 7. All peace officers, and other persons hav-

ing duties relating to the insane poor, are charged with the duty of seeing that all poor and indigent insane persons within their respective municipalities are speedily granted the relief conferred by this chapter, and, when so ordered by a superior judge, as herein provided, or by the commission, shall see that they are, without unnecessary delay, transferred to the proper state hospitals provided for their care and treatment as wards of the state. Before sending a person to any such hospital, they shall see that he is in a state of bodily cleanliness and comfortably clothed with new clothing, in accordance with the regulations prescribed by the commission. The commission may, by order, direct that any person it deems unsuitable therefor shall not be so employed as such attendant. When the relatives, friends, or guardians of an insane person desire that he should receive homœopathic treatment he may be committed to the Southern California State Hospital from any county of the state, in the discretion of the judge granting the order of commitment; provided the crowded condition of that hospital does not preclude his admission to the detriment of other patients. Each female committed to any institution for the insane shall be accompanied by a female attendant, and, if necessary, by another proper person or persons. After the patient has been delivered to the proper officers of the hospital, the care and custody of the county or municipality from which he is sent shall cease.

Sec. 8. When an insane person is possessed of sufficient property to maintain himself, or his father, mother, husband, wife, or children are of sufficient ability to maintain him, and his sanity is such as to endanger his own person, property, or the persons and property of others, the guardian of his person and estate, or such father, mother, husband, wife, or children must provide a suitable place for his custody and confinement, and there maintain him in such a manner as shall be approved by the commission. The district attorney of the county, and all other city, town, and county authorities are required to see that the provisions of this act are carried into effect in the most humane, efficient, and speedy manner. Upon the refusal or neglect of a guardian or relative of



an insane person to cause him to be confined, as required by this act, the officers named in this section shall apply to a judge of a superior court, or to a justice of the supreme court, who, upon being satisfied, upon proper proofs, that such person is dangerously insane and improperly at large, shall issue a warrant to one or more of the officers named, commanding them to apprehend and confine such insane person in some comfortable and safe place, in accordance with the provisions of this act; and such officers, in apprehending such insane person shall possess all the powers of peace officers. Unless an order of commitment has been previously granted, such officer shall forthwith notify the medical examiners, and after receiving their certificate, make application for the proper order for his commitment to the proper institution for the care, custody, and treatment of the insane, as authorized by this act; and, if such order is granted, such officer shall take the necessary legal steps to have him transferred to such hospital. In no case shall any alleged insane person be confined in any other place than a state hospital, or licensed private hospital, for a period longer than twenty days, nor shall such person be committed as a disorderly or insane person, to any prison, jail, lock-up for criminals and drunkards, nor shall he be confined in the same room with a person charged with or convicted of crime. Any person apparently insane, and conducting himself in a manner which in a sane person would be disorderly, may be taken in custody by a peace officer, and confined as provided for in this act, until the question of his sanity is determined, as prescribed herein. The officer taking such person into custody shall immediately notify two of the medical examiners, who shall forthwith take proper measures for the determination of the question of the sanity of such person.

Sec. 9. The managers of state hospitals may authorize the superintendent to admit thereto, under special agreement, insane persons, who are residents of the state, other than poor and indigent insane persons, when there is room for such insane therein. But no patient shall be permitted to occupy more than one room in any state hospital, nor shall any patient, his friends or relatives,

be permitted to pay for his care and treatment therein a sum greater than ten dollars a week. Such patients, when so received, shall be subject to the general rules and regulations of the hospital. The amount agreed upon for the maintenance of such insane person in a state hospital shall be secured by a properly executed bond, and bills therefor shall be collected monthly.

Sec. 10. Every superintendent, or person in charge, of a state hospital for the care and treatment of the insane, shall within three days after the reception of a patient, make or cause to be made a thorough physical and medical examination of such patient, on blanks prepared and exclusively set apart for that purpose. He shall also make, or cause to be made, from time to time, examination of the mental state, bodily condition, and medical treatment of such patient, in such manner and upon such blank forms, as shall be approved by the commission, during the time such patient remains under his care, and in the event of the death or discharge of such person, he shall state, upon such blank forms, the circumstances thereof, and make such examinations at such other intervals of time and in such form as may be required by the commission.

Sec. 11. When the building of any state hospital shall become overcrowded with patients, or the number of buildings shall be reduced by fire, or other casualties, or for other sufficient cause, the commission may, in its discretion, cause the transfer of patients therefrom or direct that patients required to be sent thereto, be transferred to another state hospital, where they can be conveniently received, or make in emergencies, temporary provision for their care, preference to be given in such transfer to a hospital in an adjoining rather than a remote district. The expense of such transfer shall be chargeable to the state, and the bills for the same, when approved by the commission, shall be paid by the treasurer of state on the warrant of the controller, out of any moneys provided for the care or support of the insane.

Sec. 12. When the commission has reason to believe that any person adjudged insane is wrongfully deprived of his liberty, or is cruelly or negli-

gently treated, or inadequate provision is made for his skillful medical care, proper supervision, and safe keeping, it may ascertain the facts, or may order an investigation of the facts by one or all of its members. It, or the commissioner conducting the proceeding, may issue compulsory process for the attendance of witnesses and the production of papers, and exercise the powers conferred upon a referee in a superior court. If the commission deem it proper, it may issue an order to any state hospital, directing and providing for such remedy or treatment, or both, as shall be therein specified. If such order be just and reasonable, and be approved by the judge of the superior court, in which the state hospital is situated and in which the insane person has been confined, who may require notice to be given of the application for such removal, it shall be binding upon any and all institutions and persons to which it is directed, and any willful disobedience of such order shall be a criminal contempt, and punishable as such. Whenever the commission shall undertake an investigation into the general management and administration of any state hospital for the insane, or places of detention for the alleged insane, it may give notice to the attorney-general of any such investigation, and the attorney-general shall appear personally or by deputy, and examine witnesses who may be in attendance. The commission or any member thereof, may at any time visit and examine the inmates of any county or city almshouse, to ascertain if insane persons are kept therein.

Sec. 13. Any one in custody as an insane person is entitled to a writ of habeas corpus, upon a proper application made by a relative or some friend in his behalf to the superior judge of the county in which the hospital is located. Upon the return of such writ, the fact of his insanity shall be inquired into and determined. The medical history of the patient, as it appears in the clinical records, shall be given in evidence, and the superintendent in charge of the state hospitals wherein such person is held in custody, and any other person shall be sworn touching the mental condition of such person.

Sec. 14. The superintendent of a state hospital,

on filing his written certificate with the secretary of board of managers, may discharge any patient, except one held upon an order of a court or judge having criminal jurisdiction in an action, or proceeding arising out of a criminal offense at any time, as follows:

1. A patient who, in his judgment, is recovered;
2. Any patient who is not recovered, but whose discharge, in the judgment of the superintendent, will not be detrimental to the public welfare, or injurious to the patient;

provided, however, that before making such certificate, the superintendent shall satisfy himself, by sufficient proof, that the friends or relatives of the patient are willing and financially able to receive and properly care for such patient after his discharge.

When the superintendent is unwilling to certify to the discharge of an unrecovered patient, upon request, and so certifies in writing, giving his reasons therefor, any superior judge of the county in which the hospital is situated may, upon such certificate and an opportunity of a hearing thereon being accorded the superintendent, and upon such other proofs as may be produced before him, direct, by order, the discharge of such patient, upon such security to the people of the state as he may require for the good behavior and maintenance of the patient. The certificate and the proof, and the order granted thereon, shall be filed in the clerk's office of the county in which the hospital is situated, and a certified copy of the order in the hospital from which the patient is discharged. The superintendent may grant a parole to a patient, not exceeding thirty days, under general conditions prescribed by the commission. The commission may, by order, discharge any patient who is not insane, nor a proper case for treatment within the meaning of this act. A poor and indigent patient discharged by the superintendent because he is an idiot, or an epileptic, not insane, or because he is not a proper case for treatment within the meaning of this act, shall be returned to the county from which he was committed, to be cared for as are other indigent poor. A patient committed to a hospital under the pro-

visions of chapter six, title ten, part two, of the Penal Code of this state, shall, upon the certificate of the superintendent that such person has recovered, approved by the superior judge of the county from which the patient was committed, be redelivered to the sheriff of such county, and dealt with as provided for by said chapter six of the Penal Code.

Sec. 15. No patient shall be discharged from a state hospital without suitable clothing adapted to the season in which he is discharged; and if it cannot otherwise be obtained, the steward shall, upon the order of the superintendent, furnish the same, and money, not exceeding twenty-five dollars, to defray his necessary expenses until he can reach his relatives or friends, or find an employment to earn a subsistence.

Sec. 16. If an order be issued by any judge, committing to a state hospital a poor or indigent person who has not acquired a legal residence in this state, the board of managers shall return such insane person, either before or after his admission to a state hospital, to the country or state to which he belongs, and for such purpose may expend as much of the money appropriated for the care of the insane as may be necessary, subject to the recommendation of the state lunacy commission, and the approval of the state board of examiners.

Sec. 17. No person, association, or corporation shall establish or keep an institution for the care, custody, or treatment of the insane for compensation, or hire, without first obtaining a license therefor from the commission. Every application for such license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the commission may require. The commission shall not grant any such license without first having made an examination of the premises proposed to be licensed, and be satisfied that they are substantially as described, and are otherwise fit and suitable for the purposes for which they are designed to be used,

and that such license shall be granted. The commission may, at any and all times, examine and ascertain how far a licensed institution is conducted in compliance with the license therefor, and after due notice to the institution, and opportunity for it to be heard, the commission, having made a record of the proceeding upon such hearing, may, if the interests of the inmates of the institution so demand, for just and reasonable cause then appearing, and to be stated in its order, amend or revoke any such license by an order to take effect within such time after the service thereof upon the licensee as the commission shall determine. The authorities of each institution for the insane shall place on file in the office of the institution the recommendations made by the commissioners, as a result of their visits, for the purpose of consultation by such authorities, and for reference by the commissioners upon their visits.

Sec. 18. That all appropriations made by the legislature shall be made separate and distinct for each state hospital, and the commissioners, in paying the expenses incurred by them, shall be paid pro rata from the funds of the several state hospitals, and the state controller is hereby authorized to draw his warrants for the same.

Sec. 19. Nothing in this act shall affect the tenure of the officers of the existing institutions, nor the fixed salary of any officer elected by existing boards of trustees or directors of asylums of this state during their present term of office.

Sec. 20. All acts or parts of acts in conflict with this act are hereby repealed.

Sec. 21. This act shall take effect from and after its passage.

An act in relation to the superintendent of the state insane asylum.

[Approved April 1, 1872; 1871-2, 845.]

This act, providing for the attendance of the superintendent of the Napa asylum at the said meetings was repealed by the act of March 30, 1878, given below:



An act in relation to the state insane asylum.

[Approved March 30, 1878; 1877-8, 767.]

Superintendent or assistant to attend meetings of superintendents of American institutions for the insane.

Section 1. The superintendent of the state insane asylum at Stockton, or one of his assistants, may attend the annual meetings of the superintendents of the American institutions for the insane, and the expenses, not to exceed four hundred dollars per annum, must be audited and allowed by the board of examiners, and paid out of the state treasury. The resident physician of the Napa state asylum for the insane, or one of his assistants, may also attend such annual meetings, and the expenses, not to exceed four hundred dollars per annum, shall also be audited by the board of examiners, and paid out of the state treasury; provided, that the medical superintendent, or one of his assistants, of the Stockton asylum, may attend said meeting in the year eighteen hundred and seventy-eight, and the resident physician, or one of his assistants, of the Napa asylum, may attend said meeting in the year eighteen hundred and seventy-nine, and thereafter the said physicians shall attend said meeting alternately.

Repeal.

Sec. 2. An act entitled an act in relation to the superintendent of the state insane asylum, approved April first, eighteen hundred and seventy-two, is hereby repealed.

Sec. 3. This act shall take effect immediately.

## STOCKTON.

Consult the following acts:

An act to provide for the erection of new buildings, and for the permanent improvement of the buildings upon the grounds of the state asylum for the insane at Stockton, and to appropriate money therefor.

[Approved March 15, 1889; 1889, 199.]

Fifty thousand dollars was appropriated for the purpose indicated.

J An act making an appropriation for supplying water, light, and fuel for the state insane asylum at Stockton, and to repeal an act entitled "An act making an appropriation for supplying water, light, and fuel for the state insane asylum at Stockton," approved March 11, 1889.

[Approved March 16, 1889; 1889, 225.]

This act appropriated forty thousand dollars, and repealed a similar appropriation bill approved March 11, 1889.

W An act empowering directors of Stockton asylum to provide for the construction and maintenance of an open canal from and along North street in the city of Stockton to the San Joaquin river for sanitary and drainage purposes was approved March 12, 1887; Stats. 1887, p. 109.

An act to provide for furnishing the boiler-house and for repairing the buildings upon the grounds of the state asylum for the insane at Stockton, and to appropriate money therefor.

[Approved March 14, 1889; 1889, 142.]

Twenty-nine thousand thousand seven hundred and fifty dollars was appropriated for the purpose indicated.

An act to provide for certain improvements in the state insane asylum at Stockton, California, and making an appropriation therefor.

[Approved March 23, 1893; Stats. 1893, p. 188.]

Ten thousand dollars was appropriated for the purpose indicated.

28 An act to provide for the purchase of apparatus and appliances for the protection of the buildings and property of the state insane asylum at Stockton, California, and making an appropriation therefor.

[Approved March 23, 1893; Stats. 1893, p. 189.]

The act provided five thousand dollars for this purpose.

An act to provide for the erection of a building for the insane at the state asylum at Stockton, and for the improvement of the drainage and water supply thereof.

[Approved March 13, 1883; 1883, 288.]

This act appropriated one hundred and sixty-three thousand dollars for the purposes mentioned in the title.

### NAPA.

Consult the following acts:

An act for the appropriation of money for the erection of buildings, and improvements, and the purchase of land for the Napa state asylum for the insane.

[Approved March 13, 1883; 1883, 284.]

The act appropriated thirteen thousand five hundred dollars for the purpose indicated in the title.

An act to appropriate four hundred and ninety-four thousand dollars to pay the valid and equitable claims against the state, incurred in building the Napa state asylum for the insane, and to complete said structure, supply water therefor, and improve the grounds on which it is situate.

[Approved April 1, 1876; 1875-6, 804.]

This act, besides appropriating money as indicated in the title, required the trustees to investigate all claims for indebtedness incurred by the board of directors appointed under the act of March 27, 1872.

A further sum of forty-eight thousand dollars was appropriated for paying outstanding liabilities and covering deficiencies by act of April 3, 1876; 1875-6, 851.

An act to provide a supply of water for the Napa state asylum for the insane.

[Approved April 3, 1876; 1875-6, 883.]

This act provided for the condemnation for the purpose of supplying water to the asylum of any

springs and natural sources of water supply within a mile and a half of the asylum grounds.

An act to provide for the erection of a building for the insane at the state insane asylum at Stockton.

[Approved April 15, 1880; 1880, 61 (Ban. ed. 234.)]

This act appropriated eighty-five thousand dollars for the purpose indicated in the title.

An act to provide for the purchase of additional grounds for the state insane asylum at Napa.

[Approved March 14, 1881; 1881, 88.]

This act appropriated twelve thousand dollars to purchase a tract of land from W. H. Coombs, for the purpose mentioned.

A similar act was also approved March 27, 1895, Stats. 1895, p. 240.

An act to provide for the construction and furnishing of two infirmaries at the Napa state asylum for the insane, and making an appropriation therefor.

[Approved March 16, 1889; 1889, 209.]

This act appropriated twenty-eight thousand dollars for the purpose indicated.

An act to provide further accommodation for the insane of the state of California, and to provide a special fund therefor.

[Approved March 27, 1872; 1871-2, 673.]

This act provides for the establishment of a new asylum for the insane; for the appointment of commissioners to select a site, and for the construction and management of the institution. The site selected was Napa, and the asylum has been built there. Its management, as provided by this act, has, however, been superseded by the provisions of the act of March 6, 1876, given below. By section 22 of that act, as will be seen by reference to it, this act was continued in force only for a special purpose. Under the circumstances, this act is omitted, except its title and reference as above.

An act to prohibit the sale of intoxicating liquors within a certain distance of the Napa state asylum for the insane. *Revised 172*

[Approved January 15, 1874; 1873-4, 27.]

An act to provide for the completion of the Napa state asylum for the insane, and for other purposes.

[Approved March 24, 1874; 1873-4, 565. ]

This act appropriated six hundred thousand dollars for the completion of the Napa insane asylum, legalized contracts then made, and required the asylum to be completed for the sum so appropriated. *7*

An act to provide for the future management of the Napa state asylum for the insane. *Lucas*

[Approved March 6, 1876; 1875-6, 133.]

This act was amended March 17, 1887, Stats. 1887, p. 177, and March 19, 1889, Stats. 1889, p. 351; March 13, 1883, Stats. 1883, p. 281. *Ref*

An act to authorize and empower the board of trustees of the Napa State Asylum for the Insane to sell and convey a portion of real property situate in Napa county, in the State of California, and belonging to said state, to Napa county, for the purpose of a public highway, and to sell and convey a certain other portion of said tract to an individual or individuals. *7*

[Approved March 20, 1889; 1889, 422.]

The purpose of this act is indicated by the title.

An act to provide for certain improvements and repairs at the Napa State Asylum for the Insane, and making an appropriation therefor. *7*

[Approved March 16, 1889; 1889, 205.]

This act appropriated four thousand dollars for the improving and laying new planking and flooring in corridors and hallways.

## SOUTHERN CALIFORNIA.

Consult the following acts:

*Per* An act to provide for the erection and management of a State hospital for the insane, to be located in southern California.

[Approved March 11, 1889; 1889, 120.]

See also amendatory acts of March 31, 1891, Stats. 1891, p. 481, and March 27, 1895, Stats. 1895, p. 207.

*8* An act making an appropriation for additional improvements for the southern California State hospital for the insane.

[Approved April 6, 1891; Stats. 1891, p. 495.]

Fifty-five thousand dollars was appropriated for the purpose indicated.

*8* An act making an appropriation to pay the deficiency in the appropriation for additional improvements for the southern California state asylum for the insane and inebriates.

[Approved March 3, 1893; Stats. 1893, p. 69.]

Fifteen thousand seven hundred and fifty dollars was appropriated for the purpose indicated.

*8* An act making an appropriation for the erection of additional buildings and improvements for the southern California State asylum for the insane and inebriates.

[Approved March 3, 1893; Stats. 1893, p. 70.]

One hundred and seventeen thousand five hundred dollars was appropriated for the purpose indicated.

*8* An act authorizing the trustees to convey certain water rights, approved March 27, 1895, Stats. 1895, p. 232.



## MENDOCINO ASYLUM.

Consult the following acts:

An act entitled an act to establish a branch insane asylum for the insane of the State of California at Ukiah, to be known as the Mendocino State insane asylum, and appropriating money therefor. Ry

[Approved February 20, 1889; Stats. 1889, p. 25.]

An act to appropriate \$100,000 for the Mendocino state asylum, to complete the female ward; to purchase furniture, and furnish the buildings erected and to be erected by the directors of said asylum; to construct a plant for lighting said buildings; to improve the grounds thereof; to purchase live-stock and agricultural implements to be used for asylum purposes; to construct a carpenter-shop and morgue thereon; to furnish the bakery; to construct a dam to furnish a water supply to said asylum; for fencing the ground, and constructing a sewer system; for purchasing laundry machinery and kitchen furniture; to appropriate money therefor, and provide for the expenditure of the same. 7

[Approved March 3, 1893; Stats. 1893, p. 67.]

An act entitled an act to appropriate money to pay the claims of McGowan and Butler for building retaining walls to "The Mendocino State Asylum for the Insane," for grading and terracing the grounds thereof, and for constructing a drainage and sewer system in and about the buildings, which work was performed on and material furnished said asylum under contracts with the board of directors of said asylum. 7

[Approved March 9, 1893; Stats. 1893, p. 110.]

An act to change the name of the Mendocino State Asylum for the Insane to Mendocino Asylum. 7

[Approved March 3, 1893; Stats. 1893, p. 75.]  
Gen. Laws—37.

An act to appropriate sixty thousand dollars for the erection of an administration building for the use and occupancy of the officers, employees, and patients of the Mendocino Asylum; to purchase furniture and furnish the building so to be erected by the directors of said asylum; to appropriate money therefor, and provide for the expenditure of the same.

[Stat. approved April 1, 1897, stats. 1897; chap. cclxiv.]

## AGNEWS.

Consult the following acts:

An act to provide an additional asylum for the insane of the state of California.

[Approved March 9, 1885; Stats. 1885, p. 35.]

An act to amend this act was approved March 11, 1889, Stats. 1889, p. 130.

An act appropriating the sum of two hundred and five thousand dollars for the erection of additional buildings at Agnews for the use of the chronic insane, to appropriate money therefor, and to provide for the expenditure of the same.

[Approved March 14, 1889; 1889, 173.]

This act appropriated two hundred and five thousand dollars for the purpose indicated, and took effect immediately.

An act appropriating the sum of two hundred and fifty thousand dollars for the erection of additional buildings for the use of the chronic insane, to appropriate funds therefor, and to provide for the expenditure of the same.

[Approved March 4, 1887; 1887, 18.]

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## TITLE 130.

## INSOLVENCY.

Acts relating to, see Code of Civil Procedure, Appendix, title Insolvency, p. 817.

## TITLE 131.

## INSURANCE.

An Act relative to the noninsurance of property belonging to the state against risk of damage or destruction by fire.

[Approved March 10, 1891; Stats. 1891, 70.]

Section 1. No property belonging to this state shall hereafter be insured against risk of damage or destruction by fire, and no policy of fire insurance now existing upon any property belonging to this state shall be renewed at the expiration thereof, except the state printing-office and its contents.

Sec. 2. This act shall take effect immediately.

For other acts relating to, see Civil Code, Appendix, title Insurance, p. 777 et seq.

## TITLE 132.

## INTERPRETERS.

Acts relating to, see Code of Civil Procedure, Appendix, title Interpreters, p. 856; Penal Code, Appendix, title Interpreters, p. 576.

## TITLE 133.

## INTOXICATING LIQUORS.

Acts relating to, see Penal Code, Appendix, title Intoxicating Liquors, p. 578.

## TITLE 134.

## INVENTORY.

An act to require an inventory of the state and county property, and directing that a record of the same be kept.

[Stat. approved February 9, 1897; ch. 7.]

The nature of the act appears from its title.

## TITLE 135.

## INYO COUNTY.

A reference to special acts relating to Inyo county is contained in Deering's Annotated Penal Code, p. 599.

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## TITLE 136.

## IRRIGATION DISTRICTS.

[The Irrigation Act of 1897 can be found post, p. 462. As the irrigation districts now in force were formed under the prior acts and as the legal questions involved in relation to them depend upon the construction of these prior acts it is deemed best to set them forth in full.]

An Act to amend "An Act amendatory of and supplemental to an act entitled 'An Act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes,' approved March 7, 1887, providing for the exclusion of certain lands within any such district."

[Approved Feb. 16, 1889; Stats. 1889, p. 21.]

Boundaries of irrigation districts, how changed.

Section 1. The boundaries of any irrigation district now or hereafter organized under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, one thousand eight hundred and eighty-seven, may be changed, and tracts of land which were included within the boundaries of such district at or after its organization under the provisions of said act may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the district nor such

exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made or had not such land been excluded from the district. [Amendment approved March 25, 1893; Stats. 1893, 516.]

Petition to exclude from district.

Section 2. The owner or owners in fee of one or more tracts of land which constitute a portion of an irrigation district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded, and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment-book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance. [Amendment approved March 25, 1893, Stats. 1893, 516.]

Publication of notice.

Section 3. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be so published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices one of

said notices must be so posted on the lands proposed to be excluded. The notice shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. [Amendment approved March 25, 1893; Stats. 1893, 516.]

#### Hearing of petition.

Section 4. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent to each and all of such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition. [Amendments approved March 25, 1893; Stats. 1893, 516.]



## Action of board of directors on petition.

Section 5. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interests of the district that the lands, or some portion thereof, mentioned in the petition should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause, in writing, why the said lands, or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith make, an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district; provided, that it shall be the duty of said board to so order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom which cannot be irrigated from, or which are not susceptible to, or would not, by reason of being permanently devoted to uses other than agricultural, horticultural, viticultural, or grazing, be directly benefited by the actual irrigation of the same from a common source, or by the same system of works with the other lands of said district, or from the source selected, chosen, or provided, or the system adopted for the irrigation of the lands of said district, or which are already irrigated or entitled to be irrigated from another source or by another system of irrigation works; but no lands included within the limits of any city or town, or which shall have been subdivided into town lots or blocks, shall be excluded under the provisions of this act, and no lands irrigated or entitled to be irrigated from another source or by another system of irrigation works, shall be excluded under the provisions of this act, from any district organized before the passage of this act. [Amendment approved March 25, 1893; Stats. 1893, 516.]

### Outstanding bonds.

Section 6. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district, and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so excluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated. [Amendment approved March 25, 1893; Stat. 1893, 516.]

Sections 7 and 8 repealed, amendment approved March 25, 1893, Stats 1893, p. 516.

### Orders to be filed in the recorder's office.

Section 9. In the event the said board of directors shall exclude any lands from said district upon petition therefor, or in the event any lands be excluded from the said district by a decree of court, as hereinafter provided for, upon receipt of a certified copy of a decree so made, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, whether after or without said decree of exclusion, certified by the presi-

dent and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district; but said district, notwithstanding such exclusion, shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district. [Amendment approved March 25, 1893; Stat. 1893, 516.]

Vacancy, filling of.

Section 10. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board, or the decree of the superior court as provided in this act, excluding said lands, and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified. [Amendment approved March 25, 1893; Stats. 1893, 516.]

Division of districts.

Section 11. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth, and fifth, and one director shall be elected by each division. For the purposes of election in such district, the board of directors must establish a convenient number of election precincts and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary. [Amendment approved March 25, 1893; Stats. 1893, p. 516.]

Rights of guardians, executors, etc.

Sec. 12. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who as such

guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed. [Amendment approved March 25, 1893; Stats. 1893, 516.]

Excluded lands, liability of.

Sec. 13. Nothing in this act provided shall in any manner operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but, upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said irrigation district the same as though said petition for its exclusion had never been filed, or said order or decree of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever incurred after the filing with the board of directors of said district, the petition for the exclusion of said lands from the said district, provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assent

ed to the exclusion of such lands from said district, as hereinbefore provided. [Amendment approved March 25, 1893; Stats. 1893, 516.]

Sec. 14. This act shall take effect from and after its passage.

An Act amendatory of and supplemental to an "An Act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, and providing for a change of the boundaries of irrigation districts, by including other lands therein.

[Approved February 16, 1889; 1889, 18.]

Change of boundaries, how affected.

Section 1. The boundaries of any irrigation district now or hereafter organized under the provisions of an act entitled "An Act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and water property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, may be changed in the manner herein prescribed; but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

Holders of title may petition for change of boundaries.

Sec. 2. The holder or holders of title, or evidence of title, representing one-half or more of any body of lands adjacent to the boundary of an irrigation district, which are contiguous, and which, taken together, constitute one tract of land, may file with the board of directors of said district a petition in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several

parcels owned by the petitioners, if the petitioners be the owners respectively of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment-book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are respectively the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

#### Publication of petition.

Sec. 3. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by said act to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in or that may be affected by such change of the boundaries of the district to appear at the office of said board at a time named in said notice and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this act.

#### Hearing of petition.

Sec. 4. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all the objections thereto presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid,



shall be deemed and taken as an assent on his part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

Petitioners may be assessed.

Sec. 5. The board of directors to whom such petition is presented may require as a condition precedent to the granting of the same that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments had such lands been included in such district at the time the same was originally formed.

When petition may be rejected.

Sec. 6. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district that the boundaries of said districts be changed, and if no person interested in said district or the proposed change of its boundaries shows cause in writing why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary.

Resolution of board to change boundaries.

Sec. 7. If any person interested in said district,  
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or the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolution to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opinion should be included within the boundaries of the district when changed.

Election to determine change of boundaries.

Sec. 8. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

Duty of board on result of election.

Sec. 9. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions

thereof to be made as the board may deem necessary.

Change of boundaries to be recorded.

Sec. 10. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries as aforesaid had been included therein at the original organization of the district.

Recording petition in minutes.

Sec. 11. Upon the filing of the copies of the order as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

Rights of guardian, executor, etc.

Sec. 12. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

Redivision of districts.

Sec. 13. In case of the inclusion of any land within any district by proceedings under this act, the board of directors must, at least thirty days prior to the next succeeding general election, make an order redividing such district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth, and fifth, and one director shall thereafter be elected by each division. For the purposes of elections the board of directors must establish a

convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board may deem necessary.

Sec. 14. This act shall take effect from and after its passage.

An Act supplemental to an act entitled "An Act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, and to provide for the examination, approval, and confirmation of proceedings for the issue and sale of bonds issued under the provisions of said act.

[Approved March 16, 1889; 1889, 212.]

Proceeding to determine as to sale of bonds.

Section 1. The board of directors of an irrigation district, now or hereafter organized under the provisions of the act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, may commence a special proceeding in and by which the proceedings of said board and of said district, providing for and authorizing the issue and sale of the bonds of said district, whether said bonds or any of them have or have not then been sold, may be judicially examined, approved, and confirmed.

Petition of directors asking judicial determination.

Sec. 2. The board of directors of the irrigation district shall file in the superior court of the county in which the lands of the district, or some portion thereof, are situated, a petition praying, in effect, that the proceedings aforesaid may be examined, approved, and confirmed by the court. The petition shall state the facts showing the proceedings had for the issue and sale of said bonds; and shall state generally that the irrigation district was duly organized, and that the first board of directors was duly elected; but the petition need not state the facts showing such organization of

the district, or the election of said first board of directors.

Hearing.

Sec. 3. The court shall fix the time for the hearing of said petition, and shall order the clerk of the court to give and publish a notice of the filing of said petition. The notice shall be given and published in the same manner, and for the same length of time, that a notice of a special election provided for by said act to determine whether the bonds of said district shall be issued is required to be given and published. The notice shall state the time and place fixed for the hearing of the petition, and the prayer of the petition, and that any person interested in the organization of said district, or in the proceedings for the issue or sale of said bonds, may, on or before the day fixed for the hearing of said petition, demur to or answer said petition. The petition may be referred to and described in said notice as the petition of the board of directors of — irrigation district (giving its name), praying that the proceedings for the issue and sale of the bonds of said district may be examined, approved, and confirmed by said court.

Interested parties may answer petition.

Sec. 4. Any person interested in said district, or in the issue or sale of said bonds, may demur to or answer said petition. The provisions of the Code of Civil Procedure respecting the demurrer, and the answer to a verified complaint, shall be applicable to a demurrer and answer to said petition. The persons so demurring to or answering said petition shall be the defendants to said special proceeding, and the board of directors shall be the plaintiff. Every material statement of the petition not specifically controverted by the answer must, for the purposes of said special proceeding, be taken as true; and each person failing to answer the petition shall be deemed to admit as true all the material statements of the petition. The rules of pleading and practice, provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to the special proceeding herein provided for. A motion for a new trial must be made upon the minutes of the court. The order granting a new trial must specify the issues to be re-examined on such new

trial, and the findings of the court upon the other issues shall not be affected by such order granting a new trial.

Jurisdiction of court.

Sec. 5. Upon the hearing of such special proceedings, the court shall have power and jurisdiction to examine and determine the legality and validity of, and approve and confirm, each and all of the proceedings for the organization of said district under the provisions of the said act, from and including the petition for the organization of the district, and all other proceedings which may affect the legality or validity of said bonds, and the order for the sale, and the sale thereof. The court, in inquiring into the regularity, legality, or correctness of said proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said special proceeding; and it may approve and confirm such proceedings in part, and disapprove and declare illegal or invalid other and subsequent parts of the proceedings. The court shall find and determine whether the notice of the filing of said petition has been duly given and published, for the time and in the manner in this act prescribed. The cost of the special proceedings may be allowed and apportioned between all the parties, in the discretion of the court.

Appeal, when must be taken.

Sec. 6. An appeal from an order granting or refusing a new trial, or from the judgment, must be taken by the party aggrieved within ten days after the entry of said order or said judgment.

Sec. 7. This act shall take effect and be in force from and after its passage.

An act supplemental to an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, providing for reducing the bonded indebtedness thereof.

[Approved March 23, 1893; Stats. 1893, p. 276.]

Section 1. Whenever the board of directors of an irrigation district organized under and pursu-



ant to the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, shall determine that the authorized bonded indebtedness of such irrigation district is greater than such district is liable to need to complete its system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

Sec. 2. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of the said election shall be given in the same manner as provided in section fifteen of said act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also the date on which said election will be held and the polling places, as established by said board of directors. The ballots cast at said election shall contain the words "For reducing bonds—Yes," or "For reducing bonds—No."

Sec. 3. When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell such amount of bonds as was stipulated in the said notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

Sec. 4. In case there be outstanding bonds of any district desiring to take advantage of the provisions of this act, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section six of an act supplemental to said act, entitled "An act amendatory of and supplemental to

an act entitled 'An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution thereby for irrigation purposes,' approved March seventh, eighteen hundred and eighty-seven, providing for the exclusion of certain lands within any such district," approved February sixteenth, eighteen hundred and eighty-nine. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of this act, but not otherwise.

Sec. 5. No reduction of the bonded indebtedness, as in this act provided, shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

Sec. 6. This act shall take effect immediately.

An act to provide for the issue and sale or exchange of funding bonds of irrigation districts organized under and in pursuance of an act of the legislature of the state of California entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, to provide for the payment of such bonds, and for proceedings to test the validity of the same.

[Approved April 1, 1897; Stats. 1897, p. 394.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. Whenever an irrigation district organized under the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, or said act and the acts supplementary thereto, or amendatory thereof, has outstanding bonds, coupons, or other evidences of indebtedness, the payment thereof may be pro-

vided for by the issuance of new bonds, in the manner hereinafter prescribed.

Sec. 2. A majority in number of the holders of title, or evidences of title to real property in any irrigation district, subject to assessment, such holders of title, or evidences of title, representing a majority in value of the real property of such district according to the equalized assessment roll or rolls of such district for the year last preceding, may propose the funding of such bonds, coupons, or other evidences of indebtedness. Said equalized assessment roll or rolls shall be sufficient evidence of title for the purposes of this act.

Sec. 3. In order to propose the funding of such bonds, coupons, or other evidences of indebtedness, a petition shall be presented to the board of directors of such irrigation district, signed by a majority in number of holders of title, or evidences of title to real property in such district, and representing a majority in value of the real property of said district, subject to assessment for district purposes, which petition shall set forth the amount of bonds, coupons, or other evidences of indebtedness proposed to be funded, together with a general description of same, also the total amount of the bonds sought to be issued (provided, that said amount shall in no case be greater than the total amount of bonds, coupons, and other evidences of indebtedness then outstanding and sought to have funded); together with a full and complete statement of the purposes for which such bonds are to be used. On presentation of such petition, the same shall be entered in full on the minutes of the board.

Sec. 4. Immediately after the recording of said petition, the board shall call a special election, at which shall be submitted to the electors of such district the question, whether or not the bonds of such district in the amount set forth in said petition shall be issued. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks before such election. Such notice must specify the time of holding the

election, the amount of bonds proposed to be issued, the purposes for which they are to be issued, together with a general description of the indebtedness sought to be funded, except as herein otherwise provided. Said election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing the election of officers as provided by the law governing irrigation districts at the time of the holding of the election herein provided for; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election, the ballots shall contain the words "Bonds—Yes," or "Bonds—No," or words equivalent thereto. If two-thirds of the votes cast are "Bonds—Yes," the board of directors shall cause bonds in said amount to be issued. If more than one-third of the votes cast at such election are "Bonds—No," the result of such election shall be so declared. The result in either case shall be duly entered of record.

Sec. 5. The board of directors shall within thirty days after the issue of any bonds herein provided for bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds. Such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within thirty days after the full publication of such summons in the manner herein provided. Any one interested may, at any time before the expiration of said thirty days, appear and by proper proceedings contest the validity of such bonds, and may in the same action or proceeding contest the validity of any bonds, coupons, or other evidences of indebtedness referred to in the petition for funding and proposed to be funded, and if any such bonds, coupons, or evidences of indebtedness be shown to be invalid, then the same shall only be funded for the amount of such proportion thereof as

equals the fair and reasonable value of whatever the district may have received in consideration therefor, together with unpaid interest thereon, and the amount of such proportion shall be determined and adjudicated by the court in said action or proceeding. Such action shall be speedily tried and judgment rendered declaring such bonds so contested either valid or invalid. Either party shall have the right to appeal at any time within thirty days after the entry of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

Sec. 6. If no such proceeding shall have been taken by the board of directors, then at any time after thirty days and within ninety days after the issue of any bonds under the provisions of this act, any district assessment-payer may bring an action in the superior court of the county wherein the office of the board of directors is located, to determine the validity of any such bonds. The board of directors shall be made parties defendant, and service of summons shall be made on the members of the board personally, if they can be found within the state; if not, then by publication for three weeks in some newspaper of general circulation within the county wherein the office of the board of directors is located, such newspaper to be designated by the court having jurisdiction. Before such publication can be had, an affidavit, in the usual form, shall be made, showing such facts. Said board shall have the right to appear and contest such action. Notice of said action shall be given by publication of summons therein in the same manner, and for the same time as required in the preceding section hereof in actions brought by the board, and at any time within thirty days after the full publication of such summons in the manner herein provided. Any district assessment payer or any one interested may appear and defend said action, and thereafter the same proceedings shall be had in such action as are hereinbefore provided for in the preceding section hereof in actions brought by the board of directors, and the same matters determined and adjudicated by the court therein. Such action shall be speedily tried, with the right of appeal to either party,

within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined within three months from the time of taking such appeal.

Sec. 7. At the hearing of such proceedings the court shall hear and determine the sufficiency of all proceedings.

Sec. 8. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

Sec. 9. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The costs of any hearing or contest herein provided for may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

Sec. 10. No contest of any matter or thing herein provided for shall be made other than within the time and manner herein specified.

Sec. 11. If said bonds are directed to be issued as herein provided for, the board of directors shall cause the same to be issued. Said bonds shall be made payable in gold coin of the United States, and in twenty series, as follows, to-wit: On the first day of January after the expiration of twenty years, five per cent of the whole amount of said bonds, and on the first day of January of each year thereafter, an equal amount of such bonds until all shall have been finally paid; that is, five per cent of the whole issue of bonds—not five per cent of each bond—each being wholly payable when due. Said bonds shall bear interest at the rate of five per cent per annum, payable semi-annually on the first day of January and July of each year. They shall be negotiable in form, and shall be of denominations of not less than one hundred dollars, nor more than five hundred dollars. Said bonds shall in all respects conform to the form



of bonds prescribed by the laws governing irrigation districts at the time of their issue, except as herein otherwise provided.

Sec. 12. It shall be unlawful to sell or exchange any of the bonds issued as herein provided, for less than their par value.

Sec. 13. When bonds issued under this act shall be duly executed, they shall be deposited with the treasurer of the district, and his receipt shall be taken therefor, and he shall be charged with the same on his official bond, and shall have no power to deliver the same in exchange for any bonds or indebtedness proposed to be funded until the bonds or evidence of indebtedness proposed to be funded shall have been surrendered to him, and he shall have been ordered by the board of directors of the district, by an order duly entered on their records, to make such delivery. When such bonds have been exchanged for other bonds, coupons, or other evidences of indebtedness, the treasurer shall at once cancel such other bonds, coupons, or other evidences of indebtedness by writing across the face thereof "canceled," and the date of cancellation, and report the same with his monthly report to the board of directors of the district, designating the bond, coupon, or other evidence of indebtedness, so that it can be identified, the date of cancellation, and the person from whom it was received, together with the amount paid therefor, or the terms of exchange, in case there is an exchange.

Sec. 14. When said bonds are issued for the purpose of sale to the highest bidder, the board may sell said bonds from time to time, in such quantities as may be necessary and most advantageous, to raise money to pay bonds, coupons, or other evidences of indebtedness of the district which were outstanding at the time of the filing of said petition, and generally described therein. Before making any sale, the board shall at a meeting, by resolution, declare its intention to sell a specified amount of bonds, which resolution shall be entered in the minutes, and notice of the sale shall be given by publication thereof for at least three weeks in a newspaper published in the county in which the office of the board of directors is kept.

The notice shall state that sealed proposals will be received by the board at its office for the purchase of bonds till the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of bonds to the highest responsible bidder, or may reject all bids; but said bonds shall in no event be sold for less than their par value, including accrued interest. All moneys realized from the sale of bonds issued under the provisions of this act shall be paid into the hands of the district treasurer, and by him kept in a separate fund, known as the funding fund, and shall be applied exclusively to the payment of bonds, coupons, or other evidences of indebtedness of the district outstanding at the time of filing the said petition, and described therein.

Sec. 15. At the time fixed for the levying of assessments for other purposes authorized by the district irrigation law then in force, there shall be levied an assessment sufficient in amount to pay the principal and interest then due and unpaid on any bonds issued by authority of this act, and also the amount to become due on any such bonds during the year following such levy. The assessment so levied shall be computed and entered in the assessment roll in the same manner, and shall be collected at the same time and in the same manner as other assessments authorized by the district irrigation law, then in force, and when collected, shall be paid into the district treasury, for the purposes herein authorized; and all the provisions of said district irrigation law relating to the collection of assessments and the sale and redemption of property therefor shall be applicable to the assessments levied under this act.

Sec. 16. The bonds issued as herein provided for may be exchanged, at not less than their par value, including accrued interest, for any of the indebtedness set out and described in the petition upon which such funding bonds were issued. A contract for such exchange may be made by the board of directors upon such terms as said board may deem advisable; provided, that they must always receive not less than par and accrued interest for any bonds so exchanged; and provided fur-

ther, that no bonds shall be so exchanged except in accordance with the judgment of the superior court in the action hereinbefore provided for, or until after final judgment shall have been entered in said action.

Sec. 17. Whenever there remains in the hands of the treasurer of any district any funding bonds voted to be issued by said district, but not used, and not necessary to be used for the funding purposes set out and described in the petition for the issuance of said bonds, then said board of directors, shall at a regular meeting, within three months after the completion of the funding, cause the same to be destroyed and a record to be made thereof, and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall be thereafter reprinted or reissued.

Sec. 18. Any bonds issued under the provisions of this act shall be a lien upon the property of the district.

Sec. 19. This act shall take effect from and after its passage.

An act supplemental to an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, providing for the destruction of all or any part of the bonds of any irrigation district remaining unsold after the completion of their irrigation system.

[Approved March 26, 1895; Stats. 1895, p. 127.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. Whenever there remains in the hands of the board of directors of any irrigation district organized under the provisions of "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred

and eighty-seven, after the completion of their ditch system, and the payment of all demands against such district, any bonds voted to be issued by said district but not sold, and not necessary to be sold for raising funds for the use of such district, the board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds or so many of them as they may deem best, or may submit such proposition at any general election.

Sec. 2. Such election shall be held in the same manner as other elections held under the provisions of said act. A notice of such election shall be given in the same manner as provided in section fifteen of said act in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held; and the polling places as fixed by said board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes," and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of the bonds, otherwise the word "Yes."

Sec. 3. When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast should be found to be in favor of the destruction of such bonds, then the president of the board in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed; and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

Sec. 4. In case any bonds of any irrigation district, remaining unsold after the completion of its irrigation system, shall have been destroyed in pursuance of a vote of a majority of the voters in such district, at an election held substantially in accordance with the provisions of this act, and prior to its passage, the action of such district in so destroying such bonds is hereby ratified and confirmed.

Sec. 5. This act shall take effect and be in force from and after its passage.

An act to provide for the redemption of property which has been heretofore sold to irrigation districts for delinquent assessments.

[Approved March 10, 1891; Stats. 1891, p. 53.]

Section 1. In all cases where property has heretofore been sold for delinquent assessments, under the provisions of the act of March seventh, eighteen hundred and eighty-seven, providing for the organization of irrigation districts, and an irrigation district has become the purchaser, and has not disposed of the same, the person whose estate has been sold, or his heirs, executors, administrators, or other successors in interest, may redeem such property by paying to the treasurer of the district wherein the property is situated the amount of assessments due thereon at the time of the sale, with interest thereon at the rate of two per cent per month; and also all assessments that were a lien upon said property at the time said assessments became delinquent; and also for each year since the sale for which assessments on said property have not been paid, an amount equal to the percentage of assessments for that year, upon the value of said real estate assessed for the year of the sale, with interest from the first day of January of each of said years, respectively, at the same rate; and also all costs and expenses, and fifty per cent penalty, which may have accrued by reason of such delinquency and sale, and the costs and expenses of redemption, as herein specified. The board of directors of any district shall, on the application of any person desiring to redeem under the provisions of this act, make an estimate of the amount to be paid, and shall, by a resolution entered on their minutes, authorize the treasurer of the district, on the receipt of the amount determined by them, to give him triplicate certificates of the amount, specifying the several amounts thereof, one of which certificates shall be filed with the secretary of the district, one with the county recorder of the county in which the land is situated, and one with the treasurer of the

district, to whom payment of money shall be made, on the issuance of said certificates. The county recorder shall be paid by the redemptioner, for filing and recording said certificate, the sum of two dollars, and upon the filing of such receipt with the recorder any deed or certificate of sale that may have been made to the district shall become null and void, and all right, title, and interest acquired by the district under and by virtue of the assessment sale shall cease and determine. The receipt of the treasurer of the district herein provided for shall be recorded in the recorder's office of the county in which said property is situated, in the book of deeds, and the record thereof shall have the same effect as that of a deed of reconveyance of the interest conveyed by said deed or certificate of sale.

Sec. 2. This act shall take effect immediately.

An act to provide for the organization and government of irrigation districts, and to provide for the acquisition or construction thereby of works for the irrigation of the lands embraced within such districts, and, also, to provide for the distribution of water for irrigation purposes.

[Approved March 31, 1897; Stats. 1897, p. 254.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

### ORGANIZATION.

Section 1. A majority in number of the holders of title, or evidence of title, to lands susceptible of irrigation from a common source and by the same system of works, such holders of title, or evidence of title, representing a majority in value of said lands, according to the equalized county assessment roll or rolls for the year last preceding, may propose the organization of an irrigation district, under the provisions of this act. Said equalized assessment roll or rolls shall be sufficient evidence of title for the purposes of this act.

Sec. 2. In order to propose the organization of an irrigation district, a petition shall be presented



to the board of supervisors of the county in which the lands within the proposed district, or the greater portion thereof, are situated, signed by the required number of holders of title, or evidence of title, to lands within such proposed district, and representing the requisite majority in value of said lands, which petition shall set forth the boundaries of the proposed district, and shall state, generally, the source from which said lands are proposed to be irrigated, and the character of the works proposed to be acquired or constructed for irrigation purposes, and shall pray that the territory embraced within the boundaries of the proposed district may be organized as an irrigation district under the provisions of this act. The petition must be accompanied with a good and sufficient undertaking, to be approved by said board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the sureties shall pay all of said costs, in case said organization shall not be effected. Said petition shall be presented at a regular meeting of said board, and shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper of general circulation printed and published in the county where said petition is presented, together with a notice stating the time of the meeting at which the same will be presented; and if any portion of the lands within said proposed district lie within another county or counties, then said petition and notice shall be published, as above provided, in a newspaper published in each of said counties. When such petition is presented, said board of supervisors shall hear the same, and may adjourn such hearing from time to time, not exceeding four weeks in all. And on the final hearing said board shall make such changes in the proposed boundaries as may be deemed advisable, and shall define and establish such boundaries. But said board shall not modify said boundaries so as to exclude from such proposed district any territory which is susceptible of irrigation from a common source and by the same system of works applicable to the other lands in such proposed district; nor shall any lands which will not, in the judgment of said board, be

benefited by irrigation, by means of said system of works, be included within such proposed district. Any person whose lands are susceptible of irrigation from the same source and system of works, may, upon his application, in the discretion of said board, have such lands included within said proposed district.

Sec. 3. Upon such hearing of said petition, the board of supervisors shall determine whether or not said petition complies with the requirements of sections one and two of this act, and for that purpose must hear all competent and relevant testimony offered in support or in opposition thereto. Such determination shall be entered upon the minutes of said board of supervisors.

Sec. 4. The right of appeal from said order to the superior court of the county where said petition is heard is hereby given to any person interested who is a party to the record; provided, that if more than one appeal be taken they shall be consolidated and tried together. Such appeal shall be taken within ten days after the entry of such order upon the minutes of the board of supervisors. The appeal shall be taken and heard in the same manner as appeals from justices' courts to the superior court, except as herein otherwise provided. Upon the appeal, the superior court may make and enter its judgment affirming, modifying, or reversing the order appealed from. Within ten days thereafter the superior court must cause its remittitur to issue to said board of supervisors, and if said order of the board of supervisors is modified or reversed, the judgment of the superior court and its remittitur shall direct the board of supervisors what order it shall enter. Such remittitur shall be filed by the clerk of the board of supervisors, and at the first regular meeting of the board thereafter, it shall cause to be entered in its minutes the order as directed by said superior court. The appeal herein provided for shall be heard and determined within thirty days from the time of filing the notice of appeal.

Sec. 5. If, on said final hearing, the boundaries of the proposed district are defined and established, said board shall make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth, and fifth, and one di-

rector shall be elected for each division by the electors thereof; provided, that if so requested in said petition, the board may order that there shall be only three divisions in said district, and that only three directors be elected, or that they be elected for the district at large.

### ELECTION ON ORGANIZATION.

Sec. 6. Said board of supervisors shall then give notice of an election to be held in such proposed district, for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall describe the boundaries so established, and shall designate a name for the proposed district, and said notice shall be published for at least three weeks previous to such election, in a newspaper published within the county in which the petition for the organization of the proposed district was presented; and if any portion of such proposed district is within another county or counties, then such notice shall be published for the same length of time in a newspaper published in each of said counties. Such notice shall require the electors to cast ballots, which shall contain the words "Irrigation District—Yes," or "Irrigation District—No," or words equivalent thereto, and also the names of persons to be voted for at said election. For the purposes of said election the board of supervisors must establish a convenient number of election precincts in said proposed district, and define the boundaries of the same. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state, but no particular form of ballot shall be required.

Sec. 7. At such election there shall be elected a board of directors, and an assessor, tax collector, and treasurer; provided, that where a consolidation of officers as hereinafter provided for is deemed advisable in the organization of a district, the petitioners may request in their petition for organization such consolidation, and the board of supervisors calling the election shall in its order therefor announce such consolidation, and then ~~only~~ one person shall be elected to fill the several offices so consolidated.

Sec. 8. No person shall be entitled to vote at any election held under the provisions of this act unless he possesses all the qualifications required of electors under the general election laws of the state.

Sec. 9. The board of supervisors shall meet on the second Monday succeeding such election, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that at least two-thirds of all the votes cast are "Irrigation District—Yes," said board shall, by an order entered on its minutes, declare the territory duly organized as an irrigation district, under the name theretofore designated, and shall declare the persons receiving respectively the highest number of votes at said election to be duly elected.

Sec. 10. Said board shall then cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of any county in which any portion of the lands embraced in such district are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of said last-mentioned counties, and no board of supervisors of any county in which any portion of the lands embraced in such district are situated shall, after the date of the organization thereof, allow another district to be formed including any portion of said lands, without the consent of the board of directors of the district in which they are situated. From and after such filing, the organization of such district shall be complete.

Sec. 11. Such election, on organization, may be contested by any person owning property within the proposed district liable to assessment. The directors elected at such election shall be made parties defendant. Such contest shall be brought in the superior court of the county where the petition for organization is filed; provided, that if more than one contest be pending they shall be consolidated and tried together. The court having jurisdiction shall speedily try such contest, and determine, upon the hearing, whether the election was fairly conducted and in substantial compliance with the requirements of this act, and enter its judgment accordingly. Such contest must be brought within twenty days after the canvass of the vote and declaration of the result by the

board of supervisors. The right of appeal is hereby given to either party to the record within thirty days from entry of judgment. The appeal must be heard and determined by the supreme court within sixty days from the time of filing the notice of appeal.

Sec. 12. The officers elected at the election hereinbefore provided for shall immediately enter upon their duties as such, upon qualifying in the manner for such officers herein provided. Said officers shall hold office respectively until their successors are elected and qualified.

#### Duties and powers of boards of directors.

Sec. 13. The directors of any district created after the passage of this act, on the first Tuesday after their election, after they shall have qualified, shall meet and classify themselves by lot into two classes, as nearly equal in number as possible, and the term of office of the class having the greater number shall expire at the next general February election in this act provided for; and the term of office of the class having the lesser number shall terminate at the next general February election thereafter. After such classification, said directors shall organize as a board, shall elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The salary of the secretary and the amount of the bond to be given by him for the faithful performance of his duties shall be fixed by the board of directors.

Sec. 14. The board of directors shall hold a regular monthly meeting, in their office, on the first Tuesday in every month, and such special meetings as may be required for the proper transaction of business; provided, that all special meetings must be ordered by a majority of the board. The order must be entered of record, and five days' notice thereof must, by the secretary, be given to each member not joining in the order. The order must specify the business to be transacted, and none other than that specified, must be transacted at such special meeting. All meetings of the board must be public, and three members shall constitute a quorum for the transaction of business; provided, however, that when the board consists

of three members only, then in such case two shall constitute a quorum for the transaction of business, but on all questions requiring a vote there shall be a concurrence of at least the number constituting a quorum. All records of the board shall be open to public inspection during business hours. The board of directors shall, on the first Tuesday in January of each and every year render, and immediately thereafter cause to be published, a verified statement of the financial condition of the district, showing particularly the receipts and disbursements of the last preceding year, together with the source of such receipts and purpose of such disbursements. Said publication shall be made at least once a week for two weeks, in some paper published in the county where the office of the board of directors of such district is situated.

Sec. 15. The board shall have the power, and it shall be their duty, to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works and the line for any canal or canals, and the necessary branches for the same, on any lands which may be deemed best for such location. Said board shall also have the right to acquire, either by purchase or condemnation, or other legal means, all lands, and waters, and water rights, and other property necessary for the construction, use, supply, maintenance, repair, and improvements of said canal or canals, and works, including canals and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, and all necessary appurtenances. But no purchase of any waters, or water rights, or canals, or reservoirs, or reservoir sites, or irrigation works, or other real property of any nature or kind, for any price in excess of ten thousand dollars shall be final or binding on the district, nor shall the purchase price thereof be paid until a petition of a majority of the holders of title, or evidence of title, to lands within the district, such holders of title, or evidence of title, representing a majority in value of said land, according to the last equal-



ized assessment roll of the district, shall have been filed with the board and an order of the board made thereon confirming such purchase. Said board may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done, that sufficient water may be furnished to each land owner in said district for irrigation purposes. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect, or preserve any and all rights, privileges, and immunities created by this act, or acquired in pursuance thereof. And in all courts, actions, suits, or proceedings, the said board may sue, appear, and defend in person or by attorneys, and in the name of such irrigation district. It shall be the duty of said board to establish equitable by-laws, rules, and regulations for the distribution and use of water among the owners of said lands, which must be printed in convenient form for distribution in the district. Said board shall have power generally to perform all such acts as shall be necessary to fully carry out the purposes of this act.

Sec. 16. In case of condemnation proceedings the board shall proceed, in the name of the district, under the provisions of title seven, part three, of the Code of Civil Procedure.

### Water regulations.

Sec. 17. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, or the act of which this is supplementary or amendatory, together with the rights of way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the provisions of this act, is hereby declared to be a public use, subject

to the regulation and control of the state, in the manner prescribed by law.

Sec. 18. It is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each land owner upon the basis of the ratio which the last assessment of such owner for district purposes within said district bears to the whole sum assessed upon the district; provided, that any land owner may assign the right to the whole or any portion of the waters so apportioned to him.

### GENERAL ELECTIONS.

Sec. 19. An election shall be held in each irrigation district on the first Wednesday in February, eighteen hundred and ninety-nine, and on the first Wednesday in February in each second year thereafter, at which an assessor, a collector, and a treasurer, and directors for the district shall be elected. The person receiving the highest number of votes for any office to be filled at such election shall be elected thereto. The assessor, collector, and treasurer shall each hold office from the first Tuesday in March next after, for two years, and until his successor is elected and qualified. Within ten days after receiving their certificates of election, hereinafter provided for, said officers shall take and subscribe the official oath, and file the same in the office of the board of directors, and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars; each of said bonds to be approved by the board of directors; provided, that the board of directors may, if it shall be deemed advisable, fix the bonds of the treasurer and collector, respectively, to suit the conditions of the district, the maximum amount of the treasurer's bond not to exceed fifty thousand dollars, and the minimum amount thereof not to be less than ten thousand dollars; and the maximum amount of the collector's bond not to exceed twenty thousand dollars, and the minimum amount thereof not to be less than five thousand dollars. Each member of said board of directors

shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers.

Sec. 20. On the first Tuesday in March next following their election, the directors who shall have been elected at the general February election, shall meet and organize as a board, elect a president and appoint a secretary, who shall each hold office during the pleasure of the board. And the directors of districts now organized, who shall have been elected at the general February election of eighteen hundred and ninety-nine, shall, on the first Tuesday in March next thereafter, when they meet to organize, first classify themselves by lot into two classes as nearly equal in number as possible. And the term of office of the class having the greater number shall be two years; and the term of office of the lesser number shall be four years. The full term of office of directors is hereby fixed at four years.

Sec. 21. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place, to be determined by said board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, des-

ignate the house or place within the precinct where the election must be held.

Sec. 22. The inspector is chairman of the election board, and may administer all oaths required in the progress of an election; and appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election for each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened one hour after sunrise on the morning of the election, and be kept open until sunset, when the same must be closed. The provisions of the general election laws concerning the form of ballots to be used shall not apply to elections held under this act.

Sec. 23. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted, as nearly as practicable, in accordance with the provisions of the general election laws of this state. As soon as all the votes are counted, a certificate shall be drawn up on each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge, and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector, during the counting thereof, in the order in which they are entered upon the tally list by the clerks; and said ballots together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Elec-

tion Returns of (naming the precinct) Precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months, and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

Sec. 24. No list, tally paper, or certificate returned from any election, shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district for each person voted for, and declaring the result thereof.

Sec. 25. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show: (a) The whole number of votes cast in the district, and in each division of the district; (b) the names of the persons voted for; (c) the office to fill which each person was voted for; (d) the number of votes given in each precinct to each of such persons; (e) the number of votes given in each division for the office of director, and the number of votes given in the district for the offices of assessor, collector, and treasurer. The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board.

In case of a vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment of the board of directors; provided, that if said board of directors shall neglect or refuse to make such appointment within a period of forty days, then the board of supervisors of the county wherein the office of said board of directors is situated shall make such appointment. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of supervisors of the county where the office of such board of directors is situated, from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified.

Sec. 26. A director shall be a resident and freeholder of the irrigation district, but not necessarily of the division for which he is elected.

Sec. 27. The board of directors may, in its discretion, consolidate any two or more of the offices of assessor, collector, and treasurer. The order of consolidation must be made at least thirty days prior to general election of the district, and shall take effect at the next succeeding election; provided, that the board of directors may, at least thirty days before a general election of the district, where the offices have been consolidated, segregate the same, each office to be filled at such election.

Sec. 28. In any district the board of directors thereof may, upon the presentation of a petition therefor, by a majority of the holders of title, or evidence of title, of said district, evidenced as above provided, order that on and after the next ensuing general election for the district, there shall be either three or five directors, as said board may order, and they shall be elected by the district at large, or by divisions, as so petitioned and ordered; and after such order such directors shall be so elected.

### TITLE TO PROPERTY.

Sec. 29. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation



district, and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, and possess said property as herein provided.

### ISSUANCE OF BONDS.

Sec. 30. For the purpose of constructing necessary irrigating canals and works, and acquiring the necessary property and rights therefor, and otherwise carrying out the provisions of this act, the board of directors of any such district, must, as soon after such district has been organized as may be practicable, and also whenever thereafter the construction fund has been exhausted by expenditures herein authorized therefrom and it is necessary to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised. And thereafter said board when petitioned by a majority of the holders of title, or evidence of title, to lands within the district, such holders of title, or evidence of title, representing a majority in value of said lands, according to the equalized assessment roll of the district, if such has theretofore been made, and if such has not been made, then according to the equalized county assessment roll covering the lands of such district, shall immediately call a special election, at which shall be submitted to the electors of such district, possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount as set forth in said petition shall be issued. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued; and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity

with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds—Yes," or "Bonds—No," or words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board of directors shall cause bonds in said amount to be issued; if a majority of the votes cast at any bond election are "Bonds—No," the result of such election shall be so declared and entered of record. Whenever thereafter a petition of the character hereinbefore provided for in this section is presented to the board it shall so declare of record in its minutes, and shall thereupon submit such questions to said electors in the same manner and with like effect as at such previous election.

Sec. 31. All bonds issued under the provisions of this act shall be payable in gold coin of the United States, in ten series, as follows, to-wit: At the expiration of twenty-one years, five per cent of the whole number of said bonds; at the expiration of twenty-two years, six per cent; at the expiration of twenty-three years, seven per cent; at the expiration of twenty-four years, eight per cent; at the expiration of twenty-five years, nine per cent; at the expiration of twenty-six years, ten per cent; at the expiration of twenty-seven years, eleven per cent; at the expiration of twenty-eight years, thirteen per cent; at the expiration of twenty-nine years, fifteen per cent; and at the expiration of thirty years, sixteen per cent; that the several enumerated percentages being of the entire amount of the bond issue, but each bond must be made payable at a given time for its entire amount and not for a percentage. Said bonds shall bear interest at the rate of five per cent per annum, payable semi-annually, on the first day of January and July of each year. The principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than five hundred dollars; shall be negotiable in form, signed by the president and secretary, and the seal of the board of directors shall be affixed thereto. Each issue shall be numbered consecutively as issued, and the bonds of each issue

shall be numbered consecutively, and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face that they were issued by authority of this act, stating its title and date of approval, and shall also so state the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser.

Sec. 32. The board may sell said bonds from time to time in such quantities as may be necessary and most advantageous, to raise money for the construction of said canals and works, the acquisition of said property and rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least three weeks, in some newspaper published in the county where the office of the board of directors is located, and in any other newspaper, at its discretion. The notice shall state that sealed proposals will be received by the board at their office, for the purchase of bonds, till the day and hour named in the resolution. At the time appointed the board shall open the proposals, and award the purchase of the bonds to the highest responsible bidder; provided, however, that they may reject all bids. Said board shall in no event sell any of the said bonds for less than the par value thereof.

Sec. 33. Said bonds, and the interest thereon, shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district shall be and remain liable to be assessed for such payments, as hereinafter provided.

#### ASSESSMENT FOR COMPLETION OF WORKS.

Sec. 34. In case the money raised by the sale of bonds issued be insufficient or in case the bonds be ~~un~~available for the completion of the plan of canal and works adopted, and additional bonds be

not voted, it shall be the duty of the board of directors to provide for the completion of said plan by levy of assessments therefor; provided, however, that such levy of assessments shall not be made except first an estimate of the amount required for such purposes has been made by said board, and the question as to the making of said levy submitted to a vote of the electors of the district. Before such question is submitted the order of submission shall be entered in the minutes of the board, stating the amount to be levied and the purpose therefor, and if submitted at a special election said order shall, in addition, fix the day of election. Notice of such election must be given by posting notices in three public places in each election precinct in said district for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, and the amount of assessment proposed to be levied. Said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Assessment—Yes," or "Assessment—No," or words equivalent thereto. If a majority of the votes cast are "Assessment—Yes," the board of directors shall cause an assessment in the amount named in the order of submission to be levied; if a majority of the votes cast are "Assessment—No," the result of such election shall be so declared and entered of record.

#### DUTIES OF THE ASSESSOR.

Sec. 35. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all real property in the district, to the persons who own, claim, have the possession, or control thereof, at its full cash value. He must prepare an assessment book, with appropriate headings, in which must be listed all such

property within the district, in which must be specified, in separate columns, under the appropriate head: (a) the name of the person to whom the property is assessed. If the name is not known to the assessor the property shall be assessed to "unknown owners"; (b) land by township, range, section, or fractional section, and when such land is not a congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres, locality, and the improvements thereon; (c) city and town lots, naming the city or town, and the number and block, according to the system of numbering in such city or town, and the improvements thereon; (d) the cash value of real estate, other than city or town lots; (e) the cash value of improvements on such real estate; (f) the cash value of city and town lots; (g) the cash value of improvements on city and town lots; (h) the cash value of improvements on real estate assessed to persons other than the owners of the real estate; (i) the total value of all property assessed; (j) the total value of all property after equalization by the board of directors; (k) such other things as the board of directors may require. Any property which may have escaped the payment of any assessment for any year, shall, in addition to the assessment for the then current year, be assessed for such year with the same effect and with the same penalties as are provided for such current year.

Sec. 36. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to complete the assessment within the time herein prescribed. The board must fix the compensation of such deputies, which shall be paid out of the treasury of the district. The compensation must not exceed five dollars per day for each deputy, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year.

Sec. 37. On or before the first Monday in August in each year, the assessor must complete his assessment book, and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time the board of directors,

acting as a board of equalization, will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty nor more than thirty days from the first publication of the notice; and in the meantime the assessment book must remain in the office of the secretary for the inspection of all persons interested.

### EQUALIZATION OF ASSESSMENT.

Sec. 38. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from time to time, as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before them; and the board may change the valuation as may be just. The secretary of the board shall be present during its sessions, and note all changes made in the valuation of property, and in the names of the persons whose property is assessed; and within ten days after the close of the session he shall have the total values, as finally equalized by the board, extended into columns and added.

### LEVY OF AND COLLECTION OF TAXES.

Sec. 39. The board of directors shall then levy an assessment sufficient to raise the annual interest on the outstanding bonds, and in any year in which any bonds shall fall due must increase said assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature. The secretary of the board must compute and enter in a separate column of the assessment book the respective sums, in dollars and cents, to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury and be apportioned to the several proper funds.

In case of the neglect or refusal of the board of directors to cause such assessments and levies to be made as in this act provided, then the assess-



ment of property made by the county assessor and the state board of equalization shall be adopted, and shall be the basis of assessment for the district, and the board of supervisors of the county in which the office of the board of directors is situated shall cause an assessment roll for said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors, and all expenses incident thereto shall be borne by such district. In case of the neglect or refusal of the collector or treasurer of the district to perform the duties imposed by law, then the tax collector and treasurer of the county in which the office of the board of directors is situated must, respectively, perform such duties, and shall be accountable therefor upon their official bonds as in other cases.

Sec. 40. The assessment upon real property is a lien against the property assessed from and after the first Monday in March for any year, and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent issue, and such lien is not removed until the assessments are paid, or the property sold for the payment thereof.

Sec. 41. On or before the first day of November, the secretary must deliver the assessment-book to the collector of the district, who shall within twenty days publish a notice, in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable, and will become delinquent at six o'clock p. m. on the last Monday of December next thereafter, and that unless paid prior thereto, five per cent. will be added to the amount thereof, and also the time and place at which payment of assessments may be made, which notice shall be published for the period of two weeks. The collector must attend at the time and place specified in the notice, to receive assessments, which must be paid in gold and silver coin; he must mark the date of payment of any assessment in the assessment-book, opposite the name of the person paying, and give a receipt to such person, specifying the amount of the assessment and the amount paid, with a description of the property assessed. On the last Monday in December.

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ber, at six o'clock p. m., of each year, all unpaid assessments are delinquent, and thereafter the collector must collect thereon, for the use of the district, an addition of five per cent.

#### PUBLICATION OF DELINQUENT NOTICE.

Sec. 42. On or before the first day of February, the collector must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of the assessments and costs due opposite each name and description. He must append to and publish with the delinquent list a notice, that unless the assessments delinquent, together with costs and percentage, are paid, the real property upon which such assessments are a lien will be sold at public auction. The publication must be made once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; provided, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district; provided, however, that if there should occur any error in the publication of the sale of the delinquent property, which might invalidate a sale made thereunder, and such error is discovered prior to sale thereunder the collector shall at once republish the sale of the property affected by such error, making such republication conform to the provisions of this law, and the time of sale designated in such republication must not be less than twenty-one nor more than twenty-eight days from the first republication; and the place of sale must be at some point designated by the collector within the district, and stated in such republication.

#### SALE FOR DELINQUENT TAXES.

Sec. 43. The collector must collect, in addition

to the assessments due on the delinquent list and five per cent. added, fifty cents on each lot, piece, or tract of land separately assessed. On the day fixed for the sale, or some subsequent day to which he may have postponed it, of which he must give notice, the collector, between the hours of ten a. m. and three o'clock p. m., must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically, or in the numerical order of the lots or blocks, until completed. He may postpone the day of commencing the sales, or the sale, from day to day, but the sale must be completed within three weeks from the day first fixed; provided, that if any sale or sales shall be stayed by legal proceedings, the time of the continuance of such proceedings is not part of the time limited for making such sale or sales; and provided further, that in any district where the validity of any assessment shall be in litigation at the time this act shall take effect, the sale of any property, whether it be involved in such litigation or not, may be postponed for a time not to exceed four months.

Sec. 44. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate, in writing, to the collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or possessor does not, then the collector may designate it and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessments and costs due, including two dollars for the duplicate certificate of sale, is the purchaser. If the purchaser does not pay the assessments and costs before ten o'clock a. m. the following day, the property on the next sale day must be resold for the assessments and costs. But in case there is no purchaser in good faith for the same on the first day that the property is offered for sale, then, when the property is offered thereafter for sale, and there is no purchaser in good faith for the same, the whole amount of the property assessed shall be struck off to the irrigation district within which ~~such~~ lands are situated as the purchaser, and the duplicate certificate delivered to the treasurer of

the district, and filed by him in his office. No charge shall be made for the duplicate certificate where the district is the purchaser, and, in such case, the collector shall make an entry, "Sold to the district," and he shall be credited with the amount thereof in his settlement. An irrigation district as a purchaser at such sale, shall be entitled to the same rights as a private purchaser, and the title so acquired by the district, subject to the right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of said board; provided, that authority to so convey must be conferred by resolution of the board entered on its minutes, fixing the price at which such sale may be made, and such conveyance shall not be made for a less sum than the reasonable market value of such property.

Sec. 45. After receiving the amount of assessments and costs, the collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the purchaser, and the other filed in the office of the county recorder of the county in which the land is situated.

Sec. 46. The collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, purchasers' names, and amount paid, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use. On filing the certificate with such county recorder the lien of the assessments vests with the purchaser, and is only divested by the payment to him, or to the collector for his use, of the purchase money and two per cent per month from the day of sale until redemption.

## REDEMPTION OF PROPERTY SOLD FOR DELINQUENT TAXES.

Sec. 47. A redemption of the property sold may be made by the owner, or any party in interest, within twelve months from the date of purchase; provided, that all land heretofore sold at delinquent tax sale under any of the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, or the acts supplementary thereto or amendatory thereof, where deeds have not been made and delivered, or when such deed has been made to the district, and the district has not disposed of the same, may be redeemed any time within six months from January twenty-seventh, eighteen hundred and ninety-seven. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and when made to the collector he must credit the amount paid to the person named in the certificate, and pay it, on demand, to the person or his assignees. In each report the collector makes to the board of directors, he must name the person entitled to redemption money, and the amount due each. On receiving the certificate of sale, the county recorder must file it and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate, or of the collector for his use, of the total amount of the redemption money, the recorder must mark the word "redeemed," the date, and by whom redeemed, on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector, or his successor in office, must make to the purchaser, or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The collector shall receive from the purchaser, for the use of the district, two dollars for making such deed.

Sec. 48. The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that: (a) The property was assessed as required by law; (b) the property was equalized as required by law; (c) that the assessments were levied in accordance with law; (d) the assessments were not paid; (e) at a proper time and place the property was sold as prescribed by law, and by the proper officer; (f) the property was not redeemed; (g) the person who executed the deed was the proper officer.

Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of all incumbrances, except when the land is owned by the United States, or this state, in which case it is prima facie evidence of the right of possession.

Sec. 49. The assessment book or delinquent list, or a copy thereof, certified by the collector, showing unpaid assessments against any person, or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

Sec. 50. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner, or supposed owner, or other mistake relating to the ownership thereof, affects the sale, or renders it void, or voidable.

Sec. 51. On the first Monday in each month, the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath, showing: (a) An account of all his transactions and receipts since his last settlement; (b) that all money collected by him as collector has been paid. The collector shall also file in the



office of the secretary, on said first\* Monday in each month, the receipt of the treasurer for the money so paid.

## REDEMPTION OF BONDS, AND PAYMENT OF INTEREST.

Sec. 52. Upon the presentation of the coupons due, to the treasurer, he shall pay the same from the bond fund. Whenever said fund shall amount to the sum of ten thousand dollars in excess of an amount sufficient to meet the interest coupons due, the board of directors may direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising in the manner hereinbefore provided for the sale of bonds, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by the board in open meeting, at a time to be named in the notice, and the lowest bid for said bonds must be accepted; provided, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed, as herein provided for, said money shall be invested by the treasurer, under the direction of the board, in United States bonds, or the bonds of the state, which shall be kept in said "bond fund," and may be used to redeem said district bonds whenever the holders thereof may desire.

## CONSTRUCTION OF WORKS.

Sec. 53. After adopting a plan for such canal or canals, storage reservoirs, and works, as in this act provided for, the board of directors shall give notice, by publication thereof not less than twenty days in one newspaper published in each of the counties composing the district (provided, a newspaper is published therein), and in such other newspapers as they may deem advisable, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said no-

tice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as soon as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and readvertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by the board.

Sec. 54. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary; provided, that the board may draw, from time to time, from the construction fund, and deposit in the county treasury of the county where the office of the board is situated, any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same, and place the same to the credit of said district, and he shall be responsible upon his official bond for the safe-keeping and disbursement of the same, as in this act provided. He shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president, and attested by the secretary. The said county treasurer shall report, in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceding, and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board.

The district treasurer shall also report to the board, in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceding, and the amount and items of expenditures, and said report shall be verified and filed with the secretary of the board.

Sec. 55. The cost and expense of purchasing and acquiring property and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair, and improvement of such portions of said canal and works as are completed and in use, including salaries of officers and employees, the board may in lieu (either in part or in whole) of levying assessments as herein provided for, fix rates of tolls and charges, and collect the same from all persons using said canal for irrigation and other purposes.

Sec. 56. The board of directors shall have power to construct the said works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said canal or canals may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of the said property, thing, or franchise so to be crossed, cannot agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of

this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district.

### GOVERNING DIRECTORS.

Sec. 57. The directors, when sitting as a board, or acting under the orders of the board, shall each receive not to exceed three dollars per day, and actual and necessary expenses paid while engaged in official business under the order of the board. The board shall fix the compensation to be paid to all officers named in this act, to be paid out of the treasury of the district; provided, that said board shall, upon the petition of at least fifty, or a majority of the freeholders within such district, therefor, submit to the electors at any general election a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board not less than twenty days nor more than forty days prior to a general election, and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this act.

Sec. 58. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

### SPECIAL ASSESSMENTS.

Sec. 59. The board of directors may, at any time, when in their judgment it may be deemed advisable, call a special election and submit to the qualified electors of the district the question, whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this act. Such election must be called upon the notice prescribed, and the same shall be held and the re-

sult thereof determined and declared in all respects in conformity with the provisions of section thirty of this act. The notice must specify the amount of money proposed to be raised and the purpose for which it is intended to be used. At such elections the ballots shall contain the words "Assessment—Yes," or "Assessment—No." If two-thirds or more of the votes cast are "Assessment—Yes," the board shall, at the time of the annual levy hereunder, levy an assessment sufficient to raise the amount voted.

Sec. 60. The rate of assessments levied under the provisions of this act shall be ascertained by deducting fifteen per cent. for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment roll for the current year, and then dividing the sum voted by the remainder of such aggregate assessed value. The assessments so levied shall be computed and entered on the assessment roll by the secretary of the board, and collected at the same time and in the same manner as other assessments provided for herein; and when collected shall be paid into the district treasury for the purpose specified in the notice of such special election.

### INCURRING INDEBTEDNESS.

Sec. 61. The board of directors, or other officers of the district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act; and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purpose of organization, or for any of the purposes of this act, the board of directors may, before the collection of the first assessment, incur an indebtedness not exceeding in the aggregate the sum of two thousand dollars, and may cause warrants of the district to issue therefor, bearing interest at seven per cent. per annum.

### GOVERNING THE USE OF WATER.

Sec. 62. In case the volume of water in any stream or river shall not be sufficient to supply

the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners, constituted as hereinafter provided, to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment, think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. Said water commissioners shall consist of the chairman of the board of directors of each of the districts affected.

Sec. 63. It shall be the duty of the board of directors to keep the water flowing through the ditches under their control to the full capacity of such ditches in times of high water.

Sec. 64. Navigation shall never in anywise be impaired by the operation of this act, nor shall any vested interest in or to any mining water rights or ditches, or in or to any water or water rights, or reservoirs or dams now used by the owners or possessors thereof in connection with any mining industry, or by persons purchasing or renting the use thereof, or in or to any other property now used, directly or indirectly, in carrying on or promoting the mining industry, ever be affected by or taken under its provisions, save and except that rights of way may be acquired over the same.

Sec. 65. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal, or ditch from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

#### EXEMPTION FROM TAXATION—CREATION OF FUNDS.

Sec. 66. The rights of way, ditches, flumes, pipe-lines, dams, water rights, reservoirs, and other property of like character, belonging to any



irrigation district shall not be taxed for state and county or municipal purposes.

Sec. 67. The following funds are hereby created and established, to which the moneys properly belonging shall be apportioned, to wit: Bond fund, construction fund, general fund.

### GENERAL PROVISIONS.

Sec. 68. The board of directors may, at any time after the issue of any bonds or the levy of any assessment herein provided for, bring an action in the superior court of the county wherein is located the office of such board, to determine the validity of any such bonds or such levy of assessments; such action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some paper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the proceedings. Jurisdiction shall be complete within ten days after the full publication of such summons in the manner herein provided. Any one interested may at any time before the expiration of said ten days appear and by proper proceedings contest the validity of such bonds or assessments. Such action shall be speedily tried and judgment rendered declaring such matter so contested either valid or invalid. Either party may have the right to appeal to the supreme court at any time within thirty days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal.

Sec. 69. If no such proceeding shall have been brought by the board of directors, then, at any time within thirty days after the levy of any assessment or issue of any bonds under the provisions of this act, any district assessment-payer may bring an action in the superior court of the county where the office of the board of directors is located, to determine the validity of any such assessment or such bonds. The board of directors shall be made parties defendant, and service of summons shall be made on the members of the

board personally. Said board shall have the right to appear and contest such action. Such action shall be speedily tried, with the right of appeal to either party, within the time and manner herein provided for the bringing of actions by the board to determine such matters. Such appeal shall be heard and determined in the manner and within the time therein provided.

Sec. 70. If more than one action shall be pending at the same time concerning similar contests in this act provided for, they shall be consolidated and tried together.

Sec. 71. The court hearing any of the contests herein provided for, in inquiring into the regularity, legality, or correctness of such proceedings, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to said action or proceeding. The rules of pleading and practice provided by the Code of Civil Procedure, which are not inconsistent with the provisions of this act, are applicable to all actions or proceedings herein provided for. The motion for a new trial of any such action or proceeding must be heard and determined within ten days from the filing of the notice of intention. The costs on any hearing, or contest herein provided for, may be allowed and apportioned between the parties, or taxed to the losing party, in the discretion of the court.

Sec. 72. No contest of anything or matter herein provided shall be made other than within the time and manner herein specified.

Sec. 73. For any willful violation of any express duty herein provided for, on the part of any officer herein named, he shall be liable upon his official bond, and be subject to removal from office, by proceedings brought in the superior court of the county wherein the office of the board of directors of the district is located, by any assessment-payer of the district.

### EXCLUSION OF LANDS.

Sec. 74. The boundaries of any irrigation district now organized or hereafter organized under the provision of this act, may be changed, and tracts of land which were included within the boundaries of such district at or after its organi-

zation under the provisions of said act, may be excluded therefrom, in the manner herein prescribed; but neither such change of the boundaries of the districts nor such exclusion of lands from the district shall impair or affect its organization, or its right in or to property, or any of its rights or privileges of whatever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which said district was and may become liable or chargeable, had such change of its boundaries not been made, or had not such land been excluded from the district.

Sec. 75. The owner or owners in fee of one or more tracts of land which constitute a portion of an irrigation district may jointly or severally file with the board of directors of the district a petition, praying that such tract or tracts, and any other tracts contiguous thereto, may be excluded and taken from said district. The petition shall state the grounds and reasons upon which it is claimed that such lands should be excluded and shall describe the boundaries thereof, and also the lands of such petitioner or petitioners which are included within such boundaries; but the description of such lands need not be more particular or certain than is required when the lands are entered in the assessment-book by the county assessor. Such petition must be acknowledged in the same manner and form as is required in the case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such a conveyance.

Sec. 76. The secretary of the board of directors shall cause a notice of the filing of such petition to be published for at least two weeks in some newspaper published in the county where the office of the board of directors is situated, and if any portion of such territory to be excluded lie within another county or counties, then said notice shall be published in a newspaper published within each of said counties; or if no newspaper be published therein, then by posting such notice for the same time in at least three public places in said district, and in case of the posting of said notices, one of said notices must be so posted on the lands proposed to be excluded. The notice

shall state the filing of such petition, the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or who may be affected by such change of the boundaries of the district, to appear at the office of said board at a time named in said notice, and show cause, in writing, if any they have, why the change of the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice.

Sec. 77. The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all evidence or proofs that may or shall be introduced by or on behalf of the petitioner or petitioners, and all objections to such petition that may or shall be presented in writing by any person showing cause as aforesaid, and all evidence and proofs that may be introduced in support of such objections. Such evidence shall be taken down in shorthand, and a record made thereof and filed with the board. The failure of any person interested in said district, other than the holders of bonds thereof outstanding at the time of the filing of said petition with said board, to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, shall be deemed and taken as an assent by him to the exclusion of such tract or tracts of land, or any part thereof, from said district; and the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent by each and all of such petitioners to the exclusion from such district of the lands mentioned in the petition, or any part thereof. The expenses of giving said notice and of the aforesaid proceeding shall be paid by the person or persons filing such petition.

Sec. 78. If, upon the hearing of any such petition, no evidence or proofs in support thereof be introduced, or if the evidence fail to sustain said petition, or if the board deem it not for the best interests of the district that the lands, or some

portion thereof, mentioned in the petition, should be excluded from the district, the board shall order that said petition be denied as to such lands; but if the said board deem it for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, and if no person interested in the district show cause, in writing, why the said lands, or some portion thereof, should not be excluded from the district, or if, having shown cause, withdraws the same, or upon the hearing fails to establish such objections as he may have made, then it shall be the duty of the board to, and it shall forthwith, make an order that the lands mentioned and described in the petition, or some defined portion thereof, be excluded from said district; provided, that it shall be the duty of said board to so order, upon petition therefor as aforesaid, that all lands so petitioned to be excluded from said district shall be excluded therefrom which cannot be irrigated from, or which are not susceptible to, or would not, by reason of being permanently devoted to uses other than agricultural, horticultural, viticultural, or grazing, be directly benefited by the actual irrigation of the same from a common source, or by the same system of works with the other lands of said district, or from the source selected, chosen, or provided, or the system adopted for the irrigation of the lands of said district, or which are already irrigated or entitled to be irrigated, from another source or by another system of irrigation works; but no lands included within the limits of any city or town, or which shall have been subdivided into town lots or blocks, shall be excluded under the provisions of this act.

Sec. 79. If there be outstanding bonds of the district at the time of the filing of said petition, the holders of such outstanding bonds may give their assent, in writing, to the effect that they severally consent that the lands mentioned in the petition, or such portion thereof as may be excluded from said district by order of said board, or the decree of the superior court as hereinafter provided, may be excluded from the district; and if said lands, or any portion thereof, be thereafter excluded from the district, the lands so ex-

cluded shall be released from the lien of such outstanding bonds. The assent must be acknowledged by the several holders of such bonds in the same manner and form as is required in case of a conveyance of land, and the acknowledgment shall have the same force and effect as evidence as the acknowledgment of such conveyance. The assent shall be filed with the board, and must be recorded in the minutes of the board; and said minutes, or a copy thereof, certified by the secretary of said board, shall be admissible in evidence, with the same effect as the said assent, and such certified copy thereof may be recorded in the office of the county recorder of the county wherein said lands are situated.

Sec. 80. In the event the said board of directors shall exclude any lands from said district upon petition therefor, it shall be the duty of the board of directors to make an entry in the minutes of the board, describing the boundaries of the district, should the exclusion of said lands from said district change the boundaries of said district, and for that purpose the board may cause a survey to be made of such portions of the district as the board may deem necessary; and a certified copy of the entry in the minutes of the board excluding any land, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the land of the district; but said district, notwithstanding such exclusion, shall be and remain an irrigation district as fully, to every intent and purpose, as it would be had no change been made in the boundaries of the district, or had the lands excluded therefrom never constituted a portion of the district.

Sec. 81. If the lands excluded from any district under this act shall embrace the greater portion of any division or divisions of such district, then the office of director for such division or divisions shall become and be vacant at the expiration of ten days from the final order of the board excluding said lands; and such vacancy or vacancies shall be filled by appointment by the board of supervisors of the county where the office of such board is situated, from the district at large. A director appointed as above provided, shall hold his office



until the next regular election for said district, and until his successor is elected and qualified.

Sec. 82. At least thirty days before the next general election of such district, the board of directors thereof shall make an order dividing said district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third, and so on, and one director shall be elected by each division. For the purposes of elections in such district, the said board of directors must establish a convenient number of election precincts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board of directors may deem necessary.

Sec. 83. A guardian and executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

Sec. 84. Nothing in this act provided shall, in any manner, operate to release any of the lands so excluded from the district from any obligation to pay, or any lien thereon, of any valid outstanding bonds or other indebtedness of said district at the time of the filing of said petition for the exclusion of said lands, but upon the contrary, said lands shall be held subject to said lien, and answerable and chargeable for and with the payment and discharge of all of said outstanding obligations at the time of the filing of the petition for the exclusion of said land, as fully as though said petition for such exclusion were never filed and said order or decree of exclusion never made; and for the purpose of discharging such outstanding indebtedness, said lands so excluded shall be deemed and considered as part of said irrigation district the same as though said petition for its exclusion had never been filed or said order or

decree of exclusion never made; and all provisions which may have been resorted to to compel the payment by said lands of its quota or portion of said outstanding obligations, had said exclusion never been accomplished, may, notwithstanding said exclusion, be resorted to to compel and enforce the payment on the part of said lands of its quota and portion of said outstanding obligations of said irrigation district for which it is liable, as herein provided. But said land so excluded shall not be held answerable or chargeable for any obligation of any nature or kind whatever, incurred after the filing with the board of directors of said district of the petition for the exclusion of said lands from the said district; provided, that the provisions of this section shall not apply to any outstanding bonds, the holders of which have assented to the exclusion of such lands from said district, as hereinbefore provided.

### INCLUSION OF LANDS.

Sec. 85. The boundaries of any irrigation district now organized or hereafter organized under the provisions of this act may be changed in the manner herein prescribed; but such change of the boundaries of the district shall not impair or affect its organization, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for or upon which it was or might become liable or chargeable, had such change of its boundaries not been made.

Sec. 86. The holder or holders, of title, or evidence of title, representing one-half or more of any body of lands adjacent to the boundary of an irrigation district, which are contiguous, and which, taken together, constitute one tract of land, may file with the board of directors of said district a petition, in writing, praying that the boundaries of said district may be so changed as to include therein said lands. The petition shall describe the boundaries of said parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners, respectively of distinct parcels, but such descriptions need not be more

particular than they are required to be when such lands are entered by the county assessor in the assessment-book. Such petition must contain the assent of the petitioners to the inclusion within said district of the parcels or tracts of land described in the petition, and of which said petition alleges they are, respectively, the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.

Sec. 87. The secretary of the board of directors shall cause a notice of the filing of such petition to be given and published in the same manner and for the same time that notices of special elections for the issue of bonds are required by this act to be published. The notice shall state the filing of such petition and the names of the petitioners, a description of the lands mentioned in said petition, and the prayer of said petition; and it shall notify all persons interested in, or that may be affected by such change of the boundaries of the district, to appear at the office of said board, at a time named in said notice, and show cause in writing, if any they have, why the change in the boundaries of said district, as proposed in said petition, should not be made. The time to be specified in the notice at which they shall be required to show cause shall be the regular meeting of the board next after the expiration of the time for the publication of the notice. The petitioners shall advance to the secretary sufficient money to pay the estimated costs of all proceedings under this act.

Sec. 88. The board of directors, at the time and place mentioned in the said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all objections thereto, presented in writing by any person showing cause as aforesaid why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause, in writing, as aforesaid, shall be deemed and taken as an assent on ~~this~~ his part to a change of the boundaries of the district as prayed for in said

petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

Sec. 89. The board of directors to whom such petition is presented, may require, as a condition precedent to the granting of the same, that the petitioners shall severally pay to such district such respective sums, as nearly as the same can be estimated (the several amounts to be determined by the board), as said petitioners or their grantors would have been required to pay to such district as assessments, had such lands been included in such district at the time the same was originally formed.

Sec. 90. The board of directors, if they deem it not for the best interests of the district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, shall order that the petition be rejected. But if they deem it for the best interests of the district that the boundaries of said district be changed, and if no person interested in said district or the proposed change of its boundaries shows cause, in writing, why the proposed change should not be made, or if, having shown cause, withdraws the same, the board may order that the boundaries of the district be so changed as to include therein the lands mentioned in said petition or some part thereof. The order shall describe the boundaries as changed, and shall also describe the entire boundaries of the district as they will be after the change thereof as aforesaid is made; and for that purpose the board may cause a survey to be made of such portions of such boundary as is deemed necessary.

Sec. 91. If any person interested in said district, or the proposed change of its boundaries, shall show cause as aforesaid why such boundaries should not be changed, and shall not withdraw the same, and if the board of directors deem it for the best interests of the district that the boundaries thereof be so changed as to include therein the lands mentioned in the petition, or some part thereof, the board shall adopt a resolu-

tion to that effect. The resolution shall describe the exterior boundaries of the lands which the board are of the opinion should be included within the boundaries of the district when changed.

Sec. 92. Upon the adoption of the resolution mentioned in the last preceding section, the board shall order that an election be held within said district, to determine whether the boundaries of the district shall be changed as mentioned in said resolution; and shall fix the time at which such election shall be held, and cause notice thereof to be given and published. Such notice shall be given and published, and such election shall be held and conducted, the returns thereof shall be made and canvassed, and the result of the election ascertained and declared, and all things pertaining thereto conducted in the manner prescribed by said act in case of a special election to determine whether bonds of an irrigation district shall be issued. The ballots cast at said election shall contain the words "For change of boundary," or "Against change of boundary," or words equivalent thereto. The notice of election shall describe the proposed change of the boundaries in such manner and terms that it can readily be traced.

Sec. 93. If at such election a majority of all the votes cast at said election shall be against such change of the boundaries of the district, the board shall order that said petition be denied, and shall proceed no further in that matter. But if a majority of such votes be in favor of such change of the boundaries of the district, the board shall thereupon order that the boundaries be changed in accordance with said resolution adopted by the board. The said order shall describe the entire boundaries of said district, and for that purpose the board may cause a survey of such portions thereof to be made as the board may deem necessary.

Sec. 94. Upon a change of the boundaries of a district being made, a copy of the order of the board of directors ordering such change, certified by the president and secretary of the board, shall be filed for record in the recorder's office of each county within which are situated any of the lands of the district, and thereupon the district shall be

and remain an irrigation district, as fully, and to every intent and purpose, as if the lands which are included in the district by the change of the boundaries, as aforesaid, had been included therein at the original organization of the district.

Sec. 95. Upon the filing of the copies of the order, as in the last preceding section mentioned, the secretary shall record in the minutes of the board the petition aforesaid; and the said minutes, or a certified copy thereof, shall be admissible in evidence, with the same effect as the petition.

Sec. 96. A guardian, an executor, or an administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor, or administrator, is entitled to the possession of the lands belonging to the estate which he represents, may, on behalf of his ward, or the estate which he represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

Sec. 97. In case of the inclusion of any land within any district by proceedings under this act, the board of directors must, at least thirty days prior to the next succeeding general election, make an order redividing such district into three or five divisions, as the case may require, as nearly equal in size as may be practicable, which shall be numbered first, second, third, and so on, and one director shall thereafter be elected by each division. For the purposes of elections, the board of directors must establish a convenient number of election precincts in said districts, and define the boundaries thereof, which said precincts may be changed from time to time, as the board may deem necessary.

## REDUCTION OF BONDED INDEBTEDNESS.

Sec. 98. Whenever the board of directors of an irrigation district heretofore organized, or hereafter organized under the provisions of this act, shall determine that the authorized bonded indebtedness of such irrigation district is greater than such district is liable to need to complete its



system as planned, and there be no outstanding bonds, the board of directors may call a special election for the purpose of voting upon a proposition to reduce such bonded indebtedness to such sum as the board may determine to be sufficient for such purpose.

Sec. 99. Notice of the said election shall be given in the same manner as provided in section thirty of said act, in relation to calling special elections for issuance of bonds. The notice of election must state the amount of the authorized bonded indebtedness of such district, and the amount to which it is proposed to reduce the same; also, the date on which said election will be held, and the polling places, as established by said board of directors. The ballots cast at said election shall contain the words, "For reducing bonds—Yes," or, "For reducing bonds—No." When the vote is canvassed by the board of directors and entered of record, if a majority of the votes cast shall be "For reducing bonds—Yes," then in that event the board of directors shall only be empowered to issue or sell such amount of bonds as was stipulated in the said notice of such special election; but if a majority of said votes are not "For reducing bonds—Yes," then the authority to issue bonds shall remain the same as before said special election was held.

Sec. 99½. In case there be outstanding bonds of any district desiring to take advantage of the provisions of this act concerning reduction of bonded indebtedness, the assent of such bondholders may be obtained to such reduction of the bonded indebtedness, in the same manner as provided in section seventy-nine of this act. If such assent is obtained in the manner therein provided, then, and in that event, such district shall be empowered to take advantage of all the provisions of this act, but not otherwise. No reduction of the bonded indebtedness, as in this act provided, shall in any manner affect any order of court that may have been made, adjudicating and confirming the validity of said bonds.

Gen. Laws—43.

## LEASE OF WATER.

Sec. 100. Whenever any irrigation district, heretofore organized, or hereafter organized under the provisions of this act, in the development of its works as by law provided, may have opportunity, without increased expenditure, to utilize the water by it owned or controlled, for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

Sec. 101. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated, for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and, if the board thinks proper in such other newspapers as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said notice shall state that the board will receive sealed proposals therefor, that the lease will be let to the highest responsible bidder, stating the time and place of opening said proposals.

Sec. 102. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any or all bids, and readvertise for proposals for the same.

Sec. 103. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semi-annually, on the thirtieth day of December and thirtieth day of June of each year. All moneys collected, as in this act provided, shall be paid into the treasury, and be apportioned to such funds as may be deemed advisable.

Sec. 104. The board shall have power, as in this act provided, to execute a lease for any period not exceeding twenty-five years. If at any time the rental shall not be paid on the days hereinbefore

mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

Sec. 105. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the faithful performance of the covenants of said lease, or give such other evidence of good faith as in their judgment may be necessary.

### DESTRUCTION OF UNSOLD BONDS.

Sec. 106. Whenever there remains in the hands of the board of directors of any irrigation district heretofore organized, or organized under the provisions of this act, after the completion of its ditch system, and the payment of all demands against such district, any bonds voted to be issued by said district, but not sold, and not necessary to be sold for the raising of funds for the use of such district, said board of directors may call a special election for the purpose of voting upon a proposition to destroy said unsold bonds, or so many of them as may be deemed best, or may submit such proposition at a general election.

Sec. 107. Such election shall be held in the same manner as other elections held under the provisions of this act. A notice of such election shall be given in the same manner as provided in section thirty of this act in relation to calling special elections for the issuance of bonds. The notice of election must state the amount of the bonded indebtedness of such district authorized by the vote of the district, the amount of the bonds remaining unsold, and the amount proposed to be destroyed, and the date on which such election is proposed to be held, and the polling places as fixed by the board of directors. The ballots to be cast at such election shall contain the words "For destroying bonds—Yes," and "For destroying bonds—No," and the voter must erase the word "No" in case he favors the destruction of bonds, otherwise the word "Yes."

Sec. 108. When the vote is canvassed by the board of directors and entered of record, if a two-

thirds majority of the votes cast should be found to be in favor of the destruction of said bonds, then the president of the board, in the presence of a majority of the members of the board, must destroy the bonds so voted to be destroyed; and the total amount of bonds so destroyed and canceled shall be deducted from the sum authorized to be issued by the electors of said district, and no part thereof shall thereafter be reprinted or reissued.

### SAVING CLAUSES.

Sec. 109. Nothing in this act shall be so construed as to affect the validity of any district heretofore organized under the laws of this state, or its rights in or to property, or any of its rights or privileges of whatsoever kind or nature; but said districts are hereby made subject to the provisions of this act so far as applicable; nor shall it affect, impair, or discharge any contract, obligation, lien, or charge for, or upon which it was or might become liable or chargeable had not this act been passed; nor shall it affect the validity of any bonds which have been issued but not sold; nor shall it affect any action which now may be pending.

Sec. 110. Nothing in this act shall be construed as repealing or in anywise modifying the provisions of any other act relating to the subject of irrigation or water commissioners, except such as may be contained in the act, an act entitled an act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes, approved March seventh, eighteen hundred and eighty-seven, and the subsequent acts supplementary thereto, and amendatory thereof, all of which acts so far as they may be inconsistent herewith, are hereby repealed.

Sec. 111. This act shall take effect from and after its passage and approval.

An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes.

[Approved March 7, 1887; Stats. 1887, p. 29.]

Organization of irrigation districts—Powers conferred.

Section 1. Whenever fifty, or a majority of the holders of title, or evidence of title, to lands susceptible of one mode of irrigation from a common source and by the same system of works, desire to provide for the irrigation of the same, they may propose the organization of an irrigation district, under the provisions of this act, and when so organized such district shall have the powers conferred or that may hereafter be conferred by law upon such irrigation districts. The equalized county assessment roll next preceding the presentation of a petition for the organization of an irrigation district, under the provisions of this act, shall be sufficient evidence of title for the purposes of this act. [Amendment approved March 20, 1891; Stats. 1891, 142.]

Petition board of supervisors.

Sec. 2. A petition shall first be presented to the board of supervisors of the county in which the land, or the greatest portion thereof, is situated, signed by the required number of holders of title, or evidence of title, of such proposed district evidenced as above provided, which petition shall set forth and particularly describe the proposed boundaries of such district, and shall pray that the same may be organized under the provisions of this act. The petitioners must accompany the petition with a good and sufficient bond, to be approved by the said board of supervisors, in double the amount of the probable cost of organizing such district, conditioned that the bondsmen will pay all the said costs in case said organizations shall not be effected. Such petition shall be presented at a regular meeting of the said board, and shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper printed and published in the county where said petition is presented, together with a notice stating the time of the meeting at which the same will be presented; and if any portion of such proposed district lie within another county or counties, then said petition and notice shall be published in a newspaper published in each of said counties. When such petition is presented, the said board of supervisors shall hear the same and may adjourn such hearing from time to time,

not exceeding four weeks in all; and on the final hearing may make such changes in the proposed boundaries as they may find to be proper, and shall establish and define such boundaries; provided, that said board shall not modify said boundaries so as to except from the operation of this act any territory within the boundaries of the district proposed by said petitioners which is susceptible of irrigation by the same system of works applicable to the other lands in such proposed district; nor shall any lands which will not, in the judgment of the said board, be benefited by irrigation by said system be included within such district; provided, that any person whose lands are susceptible of irrigation from the same source may, in the discretion of the board, upon application of the owner to said board, have such lands included in said district. Said board shall also make an order dividing said district into five divisions, as nearly equal in size as may be practicable, which shall be numbered first, second, third, fourth, and fifth, and one director, who shall be a freeholder in the division, and an elector and resident of the district, shall be elected by each division; provided, that if a majority of the holders of title or evidence of title, evidenced as above provided, petition for the formation of a district, the board of supervisors may, if so requested in the petition, order that there may be either three or five directors, as said board may order, for such district, and that they may be elected by the district at large. Said board of supervisors shall then give notice of an election to be held in such proposed district, for the purpose of determining whether or not the same shall be organized under the provisions of this act. Such notice shall describe the boundaries so established, and shall designate a name for such proposed district, and said notice shall be published for at least three weeks prior to such election in a newspaper published within said county; and if any portion of such proposed district lie within another county or counties, then said notice shall be published in a newspaper published within each of said counties. Such notice shall require the electors to cast ballots, which shall contain the words "Irrigation District—Yes," or "Irrigation District—No," or



words equivalent thereto, and also the names of persons to be voted for to fill the various elective offices hereinafter prescribed. No person shall be entitled to vote at any election held under the provisions of this act unless he shall possess all the qualifications required of electors under the general election laws of this state. [Amendment approved March 20, 1891; Stats. 1891, 142.]

#### Canvass of vote.

Sec. 3. Such election shall be conducted as nearly as practicable in accordance with the general laws of this state; provided, that no particular form of ballot shall be required. The said board of supervisors shall meet on the second Monday next succeeding such election, and proceed to canvass the votes cast thereat, and if upon such canvass it appear that at least two-thirds of all the votes cast are "Irrigation District—Yes," the said board shall, by an order entered on its minutes, declare such territory duly organized as an irrigation district, under the name and style theretofore designated, and shall declare the persons receiving, respectively, the highest number of votes for such several offices to be duly elected to such offices. And no action shall be commenced or maintained, or defense made, affecting the validity of the organization, unless the same shall have been commenced or made within two years after the making and entering of said order. Said board shall cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of each county in which any portion of such lands are situated, and must also immediately forward a copy thereof to the clerk of the board of supervisors of each of the counties in which any portion of the district may lie; and no board of supervisors of any county including any portion of such district shall, after the date of the organization of such district, allow another district to be formed including any of the lands in such district, without the consent of the board of directors thereof; and from and after the date of such filing, the organization of such district shall be complete, and the officers thereof shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices,

respectively, until their successors are elected and qualified. For the purposes of the election above provided for, the said board of supervisors must establish a convenient number of election precincts in said proposed district, and define the boundaries thereof, which said precincts may thereafter be changed by the board of directors of such district. In any district the board of directors thereof may, upon the presentation of a petition therefor, by a majority of the holders of title or evidence of title of said district, evidenced as above provided, order that on and after the next ensuing general election for the district there shall be either three or five directors, as said board may order, and that they shall be elected by the district at large, or by divisions, as so petitioned and ordered; and after such order such directors shall be so elected. [Amendment approved March 20, 1891; Stats. 1891, 142.]

Time for election, and officers to be elected.

Sec. 4. An election shall be held in each district on the first Wednesday in February, eighteen hundred and ninety-three, and on the first Wednesday in February in each second year thereafter, at which an assessor, a collector, and a treasurer, and a board of directors for the district shall be elected. The person receiving the highest number of votes for any office to be filled at such election is elected thereto, and shall hold office from the first Tuesday in March next after for two years, and until his successor is elected and qualified. Within ten days after receiving their certificates of election, hereinafter provided for, said officers shall take and subscribe the official oath and file the same in the office of the board of directors and execute the bond hereinafter provided for. The assessor shall execute an official bond in the sum of five thousand dollars, and the collector an official bond in the sum of twenty thousand dollars, and the district treasurer an official bond in the sum of fifty thousand dollars, each of said bonds to be approved by the board of directors; and each member of said board of directors shall execute an official bond in the sum of five thousand dollars, which said bonds shall be approved by the judge of the superior court of said county where such organization was effected, and shall be recorded in the office of the county recorder

thereof, and filed with the secretary of said board. All official bonds herein provided for shall be in the form prescribed by law for the official bonds of county officers. [Amendment approved March 20, 1891; Stats. 1891, 142.]

Posting of election notices.

Sec. 5. Fifteen days before any election held under this act, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of said board, which shall be established and kept at some fixed place to be determined by said board, specifying the polling-places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for such precinct. If the board fail to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held.

Chairman of election board—Duties of.

Sec. 6. The inspector is chairman of the election board, and may,—

First—Administer all oaths required in the progress of an election.

Second—Appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election for each precinct must, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may ad-

minister and certify such oath. The polls must be opened one hour after sunrise on the morning of the election, and be kept open until sunset, when the same must be closed. The provisions of the Political Code concerning the form of ballots to be used shall not apply to elections held under this act.

#### Time of voting.

Sec. 7. Voting may commence as soon as the polls are opened, and may be continued during all the time the polls remain opened, and shall be conducted as nearly as practicable in accordance with the provisions of chapter nine of title two of part three of the Political Code of this state. As soon as the polls are closed, the judges shall open the ballot-box and commence counting the votes; and in no case shall the ballot-box be removed from the room in which the election is held until all the ballots have been counted. The counting of ballots shall in all cases be public. The ballots shall be taken out, one by one, by the inspector or one of the judges, who shall open them and read aloud the names of each person contained therein, and the office for which every such person is voted for. Each clerk shall write down each office to be filled, and the name of each person voted for for such office, and shall keep the number of votes by tallies, as they are read aloud by the inspector or judge. The counting of votes shall be continued without adjournment until all have been counted.

#### Manner of certifying to returns.

Sec. 8. As soon as all the votes are read off and counted, a certificate shall be drawn up on each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the clerk, judge, and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him at least six months. The ballots shall be strung upon a cord or thread by the inspector during the counting thereof, in the order in which they are entered upon the tally

list by the clerks; and said ballots, together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector in the presence of the judges and clerks, and indorsed "Election Returns of (naming the precinct) Precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months, and if any person be of the opinion that the vote of any precinct has not been correctly counted, he may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

#### Canvassing returns.

Sec. 9. No list, tally paper, or certificate returned from any election shall be set aside or rejected for want of form, if it can be satisfactorily understood. The board of directors must meet at its usual place of meeting on the first Monday after each election to canvass the returns. If, at the time of meeting, the returns from each precinct in the district in which the polls were opened have been received, the board of directors must then and there proceed to canvass the returns, but if all the returns have not been received, the canvass must be postponed from day to day until all the returns have been received, or until six postponements have been had. The canvass must be made in public and by opening the returns and estimating the vote of the district, for each person voted for, and declaring the result thereof.

#### Statement of result.

Sec. 10. The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show,—

First—The whole number of votes cast in the district, and in each division of the district.

Second—The names of the persons voted for.

Third—The office to fill which each person was voted for.

Fourth—The number of votes given in each precinct to each of such persons.

Fifth—The number of votes in each division for the office of director, and the number of votes given in the district for the offices of assessor, collector, and treasurer.

Election, how entered.

The board of directors must declare elected the persons having the highest number of votes given for each office. The secretary must immediately make out and deliver to such person a certificate of election, signed by him, and authenticated with the seal of the board. In case of a vacancy in the office of assessor, collector, or treasurer, the vacancy shall be filled by appointment of the board of directors. In case of a vacancy in the office of director, the vacancy shall be filled by appointment by the board of supervisors of the county where the office of such board of directors is situated from the division in which the vacancy occurred. An officer appointed as above provided shall hold his office until the next regular election for said district, and until his successor is elected and qualified. [Amendment approved February 16, 1889; Stats. 1889, 15.]

Organization of Board.

Sec. 11. On the first Tuesday in March next following their election, the board of directors shall meet and organize as a board, elect a president from their number, and appoint a secretary, who shall each hold office during the pleasure of the board. The board shall have the power, and it shall be their duty, to manage and conduct the business and affairs of the district; make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required, and prescribe their duties; establish equitable by-laws, rules, and regulations for the distribution and use of water among the owners of said lands, and generally to perform all such acts as shall be necessary to fully carry out the purposes of this act. The said by-laws, rules, and regulations must be printed in convenient form for distribution in the district. And it is hereby expressly provided that all waters distributed for irrigation purposes shall be apportioned ratably to each landowner upon the basis of the ratio which the last assessment of such owner for district pur-



poses within said district bears to the whole sum assessed upon the district; provided, that any landowner may assign the right to the whole or any portion of the waters so apportioned to him. [Amendment approved March 20, 1891; Stats. 1891, 142.]

#### Meeting of directors.

Sec. 12. The board of directors shall hold a regular monthly meeting in their office, on the first Tuesday in every month, and such special meetings as may be required for the proper transaction of business; provided, that all special meetings must be ordered by a majority of the board. The order must be entered of record, and five days' notice thereof must, by the secretary, be given to each member not joining in the order. The order must specify the business to be transacted, and none other than that specified must be transacted at such special meeting. All meetings of the board must be public, and three members shall constitute a quorum for the transaction of business; but on all questions requiring a vote there shall be a concurrence of at least three members of said board. All records of the board shall be open to the inspection of any elector during business hours. The board and its agents and employees shall have the right to enter upon any land to make surveys, and may locate the necessary irrigation works and the line for any canal or canals, and the necessary branches for the same, on any lands which may be deemed best for such location. Said board shall also have the right to acquire, either by purchase or condemnation or other legal means, all lands, and waters and water rights, and other property necessary for the construction, use, supply, maintenance, repair, and improvements of said canal or canals and works, including canals and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, and all necessary appurtenances. In case of purchase, the bonds of the district hereinafter provided for may be used at their par value in payment; and in case of condemnation the board shall proceed, in the name of the district, under the provisions of title seven, of part three, of the code of civil procedure. Said board

may also construct the necessary dams, reservoirs, and works for the collection of water for said district, and do any and every lawful act necessary to be done that sufficient water may be furnished to each landowner in said district for irrigation purposes. The use of all water required for the irrigation of the lands of any district formed under the provisions of this act, together with the rights of way for canals and ditches, sites for reservoirs, and all other property required in fully carrying out the provisions of this act, is hereby declared to be a public use, subject to the regulation and control of the state, in the manner prescribed by law. [Amendment approved March 20, 1891; Stats. 1891, 142.]

Title to property acquired under provisions of act.

Sec. 13. The legal title to all property acquired under the provisions of this act shall immediately and by operation of law vest in such irrigation district, and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this act. And said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, and possess said property as herein provided.

Powers of board in suits at law or in equity.

Sec. 14. The said board is hereby authorized and empowered to take conveyances or other assurances for all property acquired by it under the provisions of this act, in the name of such irrigation district, to and for the uses and purposes herein expressed, and to institute and maintain any and all actions and proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this act, or to enforce, maintain, protect, or preserve any and all rights, privileges, and immunities created by this act or acquired in pursuance thereof. And in all courts, actions, suits, or proceedings, the said board may sue, appear, and defend, in person or by attorneys, and in the name of such irrigation district.

Special election for issuance of bonds.

Sec. 15. For the purpose of constructing necessary irrigating canals and works, and acquiring the necessary property and rights therefor, and otherwise carrying out the provisions of this act,

the board of directors of any such district must, as soon after such district has been organized as may be practicable, and whenever thereafter the construction fund has been exhausted by expenditures herein authorized therefrom, and the board deem it necessary or expedient to raise additional money for said purposes, estimate and determine the amount of money necessary to be raised, and shall immediately thereafter call a special election, at which shall be submitted to the electors of such district, possessing the qualifications prescribed by this act, the question whether or not the bonds of said district in the amount as determined shall be issued. Notice of such election must be given, by posting notices in three public places in each election precinct in said district, for at least twenty days, and also by publication of such notice in some newspaper published in the county where the office of the board of directors of such district is required to be kept, once a week for at least three successive weeks. Such notices must specify the time of holding the election, the amount of bonds proposed to be issued, and said election must be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions of this act governing the election of officers; provided, that no informalities in conducting such an election shall invalidate the same, if the election shall have been otherwise fairly conducted. At such election the ballots shall contain the words "Bonds—Yes," or "Bonds—No," or words equivalent thereto. If a majority of the votes cast are "Bonds—Yes," the board of directors shall cause bonds in said amount to be issued; if a majority of the votes cast at any bond election are "Bonds—No," the result of such election shall be so declared and entered of record, and whenever thereafter said board in its judgment deems it for the best interests of the district that the question of issuance of bonds in said amount, or any amount, shall be submitted to said electors, it shall so declare of record in its minutes, and may thereupon submit such questions to said electors in the same manner and with like effect as at such previous election. Said bonds shall be payable in gold coin of the United States, in ten series, as follows, to

wit: At the expiration of eleven years, five per cent of the whole number of said bonds; at the expiration of twelve years, six per cent; at the expiration of thirteen years, seven per cent; at the expiration of fourteen years, eight per cent; at the expiration of fifteen years, nine per cent; at the expiration of sixteen years, ten per cent; at the expiration of seventeen years, eleven per cent; at the expiration of eighteen years, thirteen per cent; at the expiration of nineteen years, fifteen per cent; at the expiration of twenty years, sixteen per cent; and shall bear interest at the rate of six per cent per annum, payable semi-annually, on the first day of January and July of each year. The principal and interest shall be payable at the place designated therein. Said bonds shall be each of the denomination of not less than one hundred dollars nor more than five hundred dollars; shall be negotiable in form, signed by the president and secretary, and the seal of the board of directors shall be affixed thereto. Each issue shall be numbered consecutively as issued, and the bonds of each issue shall be numbered consecutively, and bear date at the time of their issue. Coupons for the interest shall be attached to each bond, signed by the secretary. Said bonds shall express on their face that they were issued by authority of this act, stating its title and date of approval, and shall also so state the number of the issue of which such bonds are a part. The secretary shall keep a record of the bonds sold, their number, the date of sale, the price received, and the name of the purchaser. In case the money raised by sale of all bonds issued be insufficient for the completion of the plan of canal and works adopted, and additional bonds be not voted, it shall be the duty of the board of directors to provide for the completion of said plan by levy of assessments therefor. It shall be lawful for any district, which has heretofore issued bonds under the law then in force, to issue in place thereof an equal amount of bonds in accordance with this amendment, and to sell the same, or any part thereof, as hereinafter provided, or exchange the same, or any part thereof, with the holders of such previously issued bonds which may be outstanding, upon such terms as may be agreed upon between the board of direct-

ors of the district and the holders of such outstanding bonds; provided, that said board shall not exchange any such bonds for less amount in par value of the bonds received. All of such old issue, in place of which new bonds are issued, shall be destroyed whenever lawfully in possession of said board. [Amendment approved March 20, 1891; Stats. 1891, 147.]

Board to sell bonds.

Sec. 16. The board may sell said bonds from time to time, in such quantities as may be necessary and most advantageous, to raise money for the construction of said canals and works, the acquisition of said property and rights, and otherwise to fully carry out the objects and purposes of this act. Before making any sale, the board shall, at a meeting, by resolution, declare its intention to sell a specified amount of the bonds, and the day and hour and place of such sale, and shall cause such resolution to be entered in the minutes, and notice of the sale to be given, by publication thereof at least twenty days, in a daily newspaper published in each of the cities of San Francisco, Sacramento, and Los Angeles, and in any other newspaper, at their discretion. The notice shall state that sealed proposals will be received by the board, at their office, for the purchase of the bonds, till the day and hour named in the resolution. At the time appointed, the board shall open the proposals, and award the purchase of the bonds to the highest responsible bidder, and may reject all bids; but said board shall in no event sell any of the said bonds for less than ninety per cent of the face value thereof.

How paid.

Sec. 17. Said bonds and the interest thereon shall be paid by revenue derived from an annual assessment upon the real property of the district; and all the real property in the district shall be and remain liable to be assessed for such payments as hereinafter provided. And as additional security for the payment of all said bonds, and interest thereon, the board of directors shall have power to pledge, by mortgage, trust deed, or otherwise, all property of the district situate within or without the district, whether real, personal, or

mixed, of whatsoever kind, including all its rights and privileges held or possessed at the time of the issue of said bonds, or which may hereafter be acquired under the provisions of this act. [Amendment approved March 11, 1893; Stats. 1893, 175.]

Assessment of real property.

Sec. 18. The assessor must, between the first Monday in March and the first Monday in June, in each year, assess all real property in the district to the persons who own, claim, have the possession or control thereof, at its full cash value. He must prepare an assessment-book, with appropriate headings, in which must be listed all such property within the district, in which must be specified, in separate columns, under the appropriate head,--

First. The name of the person to whom the property is assessed. If the name is not known to the assessor, the property shall be assessed to "unknown owners."

Second. Land by township, range, section, or fractional section, and when such land is not a congressional division or subdivision, by metes and bounds, or other description sufficient to identify it, giving an estimate of the number of acres, locality, and the improvements thereon.

Third. City and town lots, naming the city or town, and the number and block, according to the system of numbering in such city or town, and the improvements thereon.

Fourth. The cash value of real estate, other than city or town lots.

Fifth. The cash value of improvements on such real estate.

Sixth. The cash value of city and town lots.

Seventh. The cash value of improvements on city and town lots.

Eighth. The cash value of improvements on real estate assessed to persons other than the owners of the real estate.

Ninth. The total value of all property assessed.

Tenth. The total value of all property after equalization by the board of directors.

Eleventh. Such other things as the board of directors may require.

Any property which may have escaped the payment of any assessment for any year shall, in ad-



dition to the assessment for the then current year, be assessed for such year, with the same effect and with the same penalties as are provided for such current year. [Amendment approved March 31, 1891; Stats. 1891, 244.]

Appointment of deputy assessors, and compensation.

Sec. 19. The board of directors must allow the assessor as many deputies, to be appointed by him, as will, in the judgment of the board, enable him to complete the assessment within the time herein prescribed. The board must fix the compensation of such deputies, which shall be paid out of the treasury of the district. The compensation must not exceed five dollars per day for each deputy, for the time actually engaged, nor must any allowance be made but for work done between the first Monday in March and the first Monday in August in each year.

Time to complete assessment.

Sec. 20. On or before the first Monday in August in each year the assessor must complete his assessment-book, and deliver it to the secretary of the board, who must immediately give notice thereof, and of the time the board of directors, acting as a board of equalization, will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty nor more than thirty days from the first publication of the notice; and in the mean time the assessment-book must remain in the office of the secretary for the inspection of all persons interested.

Sitting as board of equalization.

Sec. 21. Upon the day specified in the notice required by the preceding section for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from day to day, as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before them; and the board may change the valuation as may be just. The secretary of the board shall be present during its sessions, and

note all changes made in the valuation of property, and in the names of the persons whose property is assessed; and within ten days after the close of the session, he shall have the total values, as finally equalized by the board, extended into columns, and added.

Levying of assessment to pay interest on bonds.

Sec. 22. The board of directors shall then levy an assessment sufficient to raise the annual interest on the outstanding bonds, and at the expiration of ten years after the issuing of bonds of any issue must increase said assessment to an amount sufficient to raise a sum sufficient to pay the principal of the outstanding bonds as they mature. The secretary of the board must compute and enter in a separate column of the assessment-book the respective sums, in dollars and cents, to be paid as an assessment on the property therein enumerated. When collected, the assessment shall be paid into the district treasury, and shall constitute a special fund, to be called the "Bond Fund of — Irrigation District." In case of the neglect or refusal of the board of directors to cause such assessment and levy to be made as in this act provided, then the assessment of property made by the county assessor and the state board of equalization shall be adopted, and shall be the basis of assessments for the district, and the board of supervisors of the county in which the office of the board of directors is situated shall cause an assessment-roll for said district to be prepared, and shall make the levy required by this act, in the same manner and with like effect as if the same had been made by said board of directors, and all expenses incident thereto shall be borne by such district. In case of the neglect or refusal of the collector or treasurer of the district to perform the duties imposed by law, then the tax collector and treasurer of the county in which the office of the board of directors is situated must, respectively, perform such duties, and shall be accountable therefor upon their official bonds as in other cases. [Amendment approved March 20, 1891; Stats. 1891, 147. This section was also amended in 1889; Stats. 1889, 15.]

Lien against.

Sec. 23. The assessment upon real property is a lien against the property assessed from and after the first Monday in March for any year, and the lien for the bonds of any issue shall be a preferred lien to that for any subsequent issue, and such lien is not removed until the assessments are paid, or the property sold for the payment thereof. [Amendment approved March 20, 1891; Stats. 1891, 147.]

Collection of assessments—How made.

Sec. 24. On or before the first day of November, the secretary must deliver the assessment-book to the collector of the district, who shall, within twenty days, publish a notice in a newspaper published in each county in which any portion of the district may lie, that said assessments are due and payable, and will become delinquent at six o'clock, P. M., on the last Monday of December next thereafter, and that, unless paid prior thereto, five per cent will be added to the amount thereof, and also the time and place at which payment of assessments may be made, which notice shall be published for the period of two weeks. The collector must attend at the time and place specified in the notice to receive assessments, which must be paid in gold and silver coin; he must mark the date of payment of any assessment in the assessment-book, opposite the name of the person paying, and give a receipt to such person, specifying the amount of the assessment and the amount paid, with a description of the property assessed. On the last Monday in December, at six o'clock, P. M., of each year, all unpaid assessments are delinquent, and thereafter the collector must collect thereon, for the use of the district, an addition of five per cent. [Amendment approved March 31, 1891; Stats. 1891, 244.]

Publication of delinquent list.

Sec. 25. On or before the first day of February, the collector must publish the delinquent list, which must contain the names of the persons and a description of the property delinquent, and the amount of the assessments and costs due opposite each name and description. He must append to and publish with the delinquent list a notice, that

unless the assessments delinquent, together with costs and percentages, are paid, the real property upon which such assessments are a lien will be sold at public auction. The publication must be made once a week for three successive weeks, in a newspaper published in the county in which the property delinquent is situated; provided, that if any property assessed to the same person or corporation shall lie in more than one county, then such publication may be made in any county in which any portion of such property may lie. The publication must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the first publication, and the place must be at some point designated by the collector, within the district. [Amendment approved March 31, 1891; Stats. 1891, 244.]

Collection of penalties on delinquent assessments.

Sec. 26. The collector must collect, in addition to the assessments due on the delinquent list and five per cent added, fifty cents on each lot, piece, or tract of land separately assessed, one-half of which must go to the district and the other to the collector for preparing the list. On the day fixed for the sale, or some subsequent day to which he may have postponed it, of which he must give notice, the collector, between the hours of ten o'clock, A. M., and three o'clock, P. M., must commence the sale of the property advertised, commencing at the head of the list and continuing alphabetically, or in the numerical order of the lots or block, until completed. He may postpone the day of commencing the sales, or the sale, from day to day, but the sale must be completed within three weeks from the day first fixed; provided, that if any sale or sales shall be stayed by injunction, the time of the continuance of the injunction is not part of the time limited for making such sale or sales. [Amendment approved March 31, 1891; Stats. 1891, 244.]

Right of owner to designate property to be sold.

Sec. 27. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate in writing to the collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if

the owner or possessor does not, then the collector may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessments and costs due, including two dollars to the collector for the duplicate certificate of sale, is the purchaser. If the purchaser does not pay the assessments and costs before ten o'clock, A. M., the following day, the property on the next sale day must be resold for the assessments and costs. But in case there is no purchaser in good faith for the same on the first day that the property is offered for sale, then, when the property is offered thereafter for sale, and there is no purchaser in good faith for the same, the whole amount of the property assessed shall be struck off to the irrigation district within which such lands are situated as the purchaser, and the duplicate certificate delivered to the treasurer of the district, and filed by him in his office. No charge shall be made for the duplicate certificate where the district is the purchaser, and, in such case, the collector shall make an entry, "Sold to the district," and he shall be credited with the amount thereof in his settlement. An irrigation district, as a purchaser at such sale, shall be entitled to the same rights as a private purchaser, and the title so acquired by the district, subject to the right of redemption herein provided, may be conveyed by deed, executed and acknowledged by the president and secretary of said board; provided, that authority to so convey must be conferred by resolution of the board, entered on its minutes, fixing the price at which such sale may be made, and such conveyance shall not be made for a less sum than the reasonable market value of such property. After receiving the amount of assessments and costs, the collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the names of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the collector, and one copy delivered to the purchaser, and the other filed in

the office of the county recorder of the county in which the land is situated.

[Amendment approved February 16, 1889; Stats. 1889, p. 15.]

Collector's certificate.

Sec. 28. The collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of the sale, purchasers' names, and amount paid, regularly number the description on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use. On filing the certificate with such county recorder, the lien of the assessments vests in the purchaser, and is only divested by the payment to him, or to the collector for his use, of the purchase money and two per cent per month from the day of sale until redemption.

Time and manner in which property may be redeemed.

Sec. 29. A redemption of the property sold may be made by the owner, or any party in interest, within twelve months from the date of purchase; provided, that all lands heretofore sold at delinquent tax sale under any of the provisions of this act or the acts supplementary thereto or amendatory thereof, where deeds have not been made and delivered, may be redeemed at any time within six months from the passage hereof. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and when made to the collector he must credit the amount paid to the person named in the certificate, and pay it, on demand, to the person or his assignees. In each report the collector makes to the board of directors, he must name the person entitled to redemption money, and the amount due each. On receiving the certificate of sale, the county recorder must file it and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate, or of the collector, for his use, of the total amount of the redemption money, and the recorder must mark the word "Redeem-



ed," the date, and by whom redeemed, on the certificate and on the margin of the book where the entry of the certificate is made. If the property is not redeemed within the time herein provided, the collector, or his successor in office, must make to the purchaser, or his assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The collector shall receive from the purchaser, for the use of the district, two dollars for making such deed. [Amendment approved January 27, 1897; Stats. 1897, ch. 2.]

Deed, effect of.

Sec. 30. The matter recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that,—

First—The property was assessed as required by law.

Second—The property was equalized as required by law.

Third—That the assessments were levied in accordance with law.

Fourth—The assessments were not paid.

Fifth—At a proper time and place the property was sold as prescribed by law, and by the proper officer.

Sixth—The property was not redeemed.

Seventh—The person who executed the deed was the proper officer.

Such deed duly acknowledged or proved is (except as against actual fraud) conclusive evidence of the regularity of all the proceedings from the assessment by the assessor, inclusive, up to the execution of the deed. The deed conveys to the grantee the absolute title to the lands described therein free of all encumbrances, except when the land is owned by the United States or this state, in which case it is prima facie evidence of the right of possession.

Certificate of collector prima facie evidence.

Sec. 31. The assessment book or delinquent list, or a copy thereof, certified by the collector, showing—  
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ing unpaid assessments against any person or property, is *prima facie* evidence of the assessment, the property assessed, the delinquency, the amount of assessments due and unpaid, and that all the forms of the law in relation to the assessment and levy of such assessments have been complied with.

#### Validity of sale.

Sec. 32. When land is sold for assessments correctly imposed, as the property of a particular person, no misnomer of the owner or supposed owner, or other mistake relating to the ownership thereof, affects the sale or renders it void or voidable.

#### Time and manner of settlement.

Sec. 33. On the first Monday in each month the collector must settle with the secretary of the board for all moneys collected for assessments, and pay the same over to the treasurer; and within six days thereafter he must deliver to and file in the office of the secretary a statement under oath, showing,—

First—An account of all his transactions and receipts since his last settlement.

Second—That all money collected by him as collector has been paid.

The collector shall also file in the office of the secretary on said first Monday in each month, the receipt of the treasurer for the money so paid.

#### Payment of coupons.

Sec. 34. Upon the presentation of the coupons due to the treasurer, he shall pay the same from said bond fund. Whenever, after ten years from the issuance of said bonds, said fund shall amount to the sum of ten thousand dollars, the board of directors may direct the treasurer to pay such an amount of said bonds not due as the money in said fund will redeem, at the lowest value at which they may be offered for liquidation, after advertising for at least four weeks in some daily newspaper in each of the cities hereinbefore named, and in any other newspaper which said board may deem advisable, for sealed proposals for the redemption of said bonds. Said proposals shall be opened by the board in open meeting, at a time to be named in the notice, and the lowest bid for said

bonds must be accepted; provided, that no bond shall be redeemed at a rate above par. In case the bids are equal, the lowest numbered bond shall have the preference. In case none of the holders of said bonds shall desire to have the same redeemed as herein provided for, said money shall be invested by the treasurer, under the direction of the board, in United States gold bearing bonds, or the bonds of the state, which shall be kept in said bond fund, and may be used to redeem said district bonds whenever the holders thereof may desire.

Bids for construction of canals.

Sec. 35. After adopting a plan of said canal or canals, storage reservoirs, and works, the board of directors shall give notice, by publication thereof, not less than twenty days in one newspaper published in each of the counties composing the district (provided, a newspaper is published therein), and in such other newspapers as they may deem advisable, calling for bids for the construction of such work or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposals, which, at the time and place appointed, shall be opened in public; and as soon as convenient thereafter the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any or all bids and re-advertise for proposals, or may proceed to construct the work under their own superintendence. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer, and be approved by

the board. [Amendment approved March 20, 1891; Stats. 1891, p. 142.]

#### Payment of claims.

Sec. 36. No claim shall be paid by the treasurer until allowed by the board, and only upon a warrant signed by the president, and countersigned by the secretary; provided, that the board may draw from time to time from the construction fund and deposit in the county treasury of the county where the office of the board is situated any sum in excess of the sum of twenty-five thousand dollars. The county treasurer of said county is hereby authorized and required to receive and receipt for the same, and place the same to the credit of said district, and he shall be responsible upon his official bond for the safe-keeping and disbursement of the same as in this act provided. He shall pay out the same, or any portion thereof, to the treasurer of the district only, and only upon the order of the board, signed by the president and attested by the secretary. The said county treasurer shall report in writing, on the second Monday in each month, the amount of money in the county treasury, the amount of receipts for the month preceding, and the amount or amounts paid out; said report shall be verified and filed with the secretary of the board. The district treasurer shall also report to the board, in writing, on the first Monday in each month, the amount of money in the district treasury, the amount of receipts for the month preceding, and the amount and items of expenditures, and said report shall be verified and filed with the secretary of the board.

#### Payments from construction fund.

Sec. 37. The cost and expense of purchasing and acquiring property, and constructing the works and improvements herein provided for, shall be wholly paid out of the construction fund. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair, and improvement of such portions of said canal and works as are completed and in use, including salaries of officers and employes, the board may either fix rates of tolls and charges, and collect the same from all persons using said canal for irrigation and other purposes, or they may provide for the payment of said ex-

penditures by a levy of assessments therefor, or by both said tolls and assessments; if by the latter method, such levy shall be made on the completion and equalization of the assessment roll, and the board shall have the same powers and functions for the purposes of said levy as are now possessed by boards of supervisors in this state. The procedure for the collection of assessments by such levy shall, in all respects, conform to the provisions of this act relating to the payment of principal and interest of bonds herein provided for.

#### Powers of board.

Sec. 38. The board of directors shall have the power to construct the said works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said canal or canals may intersect or cross, in such manner as to afford security for life and property; but said board shall restore the same, when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersections and crossings, and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of the said property, thing, or franchise so to be crossed, cannot agree upon the amount to be paid therefor, or the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as is herein provided in respect to the taking of land. The right of way is hereby given, dedicated, and set apart, to locate, construct, and maintain said works over and through any of the lands which are now or may be the property of this state; and also there is given, dedicated, and set apart, for the uses and purposes aforesaid, all waters and water rights belonging to this state within the district.

#### Mileage and per diem of directors.

Sec. 39. The board of directors shall each receive four dollars per day, and mileage at the rate of twenty cents per mile, in attending meetings, and actual and necessary expenses paid while en-

gaged in official business under the order of the board. The board shall fix the compensation to be paid to the other officers named in the act, to be paid out of the treasury of the district; provided, that said board shall, upon the petition of at least fifty, or a majority of the freeholders within such district therefor, submit to the electors at any general election a schedule of salaries and fees to be paid hereunder. Such petition must be presented to the board twenty days prior to a general election, and the result of such election shall be determined and declared in all respects as other elections are determined and declared under this act.

**Prohibiting officers from any interest in contracts.**

Sec. 40. No director or any other officer named in this act shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his office, and he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

**Special election.**

Sec. 41. The board of directors may, at any time, when in their judgment it may be advisable, call a special election and submit to the qualified electors of the district the question whether or not a special assessment shall be levied for the purpose of raising money to be applied to any of the purposes provided in this act. Such election must be called upon the notice prescribed, and the same shall be held, and the result thereon determined and declared in all respects in conformity with the provisions of section fifteen of this act. The notice must specify the amount of money proposed to be raised, and the purpose for which it is intended to be used. At such elections the ballots shall contain the words, "Assessment—Yes," or "Assessment—No." If two-thirds or more of the votes cast are "Assessment—Yes," the board shall, at the time of the annual levy hereunder, levy an assessment sufficient to raise the amount voted. The rate of assessment shall be ascertained by



deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district, as it appears on the assessment roll for the current year, and then dividing the sum voted by the remainder of such aggregate assessed value. The assessments so levied shall be computed and entered on the assessment roll by the secretary of the board, and collected at the same time and in the same manner as other assessments provided for herein; and when collected shall be paid into the district treasury for the purposes specified in the notice of such special election.

Power to incur debt.

Sec. 42. The board of directors, or other officers of the district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act, and any debt or liability incurred in excess of such express provisions shall be and remain absolutely void, except that for the purposes of organization, or for any of the purposes of this act, the board of directors may, before the collection of the first assessment, incur an indebtedness not exceeding in the aggregate the sum of two thousand dollars, and may cause warrants of the district to issue therefor, bearing interest at seven per cent per annum. [Amendment approved March 20, 1891; Stats. 1891, p. 142.]

Apportionment of water.

Sec. 43. In case the volume of water in any stream or river shall not be sufficient to supply the continual wants of the entire country through which it passes, and susceptible of irrigation therefrom, then it shall be the duty of the water commissioners, constituted as hereinafter provided, to apportion, in a just and equitable proportion, a certain amount of said water upon certain or alternate weekly days to different localities, as they may, in their judgment think best for the interest of all parties concerned, and with due regard to the legal and equitable rights of all. Said water commissioners shall consist of the chairman of the board of directors of each of the districts affected.

### Duty of directors.

Sec. 44. It shall be the duty of the board of directors to keep the water flowing through the ditches under their control to the full capacity of such ditches in times of high water.

### Affecting navigation and mining industry.

Sec. 45. Navigation shall never in any wise be impaired by the operation of this act, nor shall any vested interest in or to any mining water rights or ditches, or in or to any water or water rights, or reservoirs or dams, now used by the owners or possessors thereof, in connection with any mining industry, or by persons purchasing or renting the use thereof, or in or to any other property now used directly or indirectly in carrying on or promoting the mining industry, ever be affected by or taken under its provisions, save and except that rights of way may be acquired over the same.

### Diverting waters.

Sec. 46. None of the provisions of this act shall be construed as repealing or in any wise modifying the provisions of any other act relating to the subject of irrigation or water commissioners. Nothing herein contained shall be deemed to authorize any person or persons to divert the waters of any river, creek, stream, canal, or ditch, from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, canal, or ditch, or the waters therein, unless previous compensation be ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

Sec. 47. This act shall take effect immediately.

### An act to promote irrigation.

[Approved April 1, 1872; Stats. 1871-2, p. 945.]

### Petition to supervisors.

Section 1. Whenever the owners of any body of lands susceptible of one mode of irrigation or drainage desire to irrigate or drain the same, they may present to the board of supervisors of the county in which the lands or the greater portion thereof are situated, at a regular meeting of the board, a petition setting forth that they desire to adopt measures to irrigate the same, the descrip-

tion of the lands by legal subdivisions, the number of acres in the whole district, and the number of acres in each tract, with the names of the owners thereof, and the names of three persons who may desire to serve as trustees for the first three months.

#### Publication.

Sec. 2. The petition must be verified by the affidavit of one of the petitioners, and must be published for four weeks next preceding the hearing thereof, in some newspaper published in the county in which the lands are situated; or if there is no newspaper published in the county, then it must be published in some newspaper having a general circulation in the county, and an affidavit of publication must be filed with such petition.

#### Districts.

Sec. 3. When a district is situated partly in different counties, the trustees must, after the petition has been granted, forward a copy thereof to the clerk of the board of supervisors of each of the counties in which any portion of the district may lie, and the board to which the same is forwarded must not allow another district to be formed within such district unless with the consent of the trustees thereof.

#### Approval of petition—Trustees.

Sec. 4. If the board of supervisors find upon the hearing of the petition that the statements are correct, and that no land is improperly included or excepted from the district, they must note their approval on the petition, which approval must be signed by the president and attested by the clerk; and from and after the approval the district is duly formed, and the persons named in the petition are the trustees for the first three months, and until their successors are appointed.

#### Record.

Sec. 5. The petition must then be recorded by the county recorder in a book kept for the purpose.

#### By-laws.

Sec. 6. After the approval of the petition, the petitioners may make such by-laws as they deem necessary for future appointment of trustees, and to effect the works of irrigation or drainage, keep the same in repair and operation, and for the con-

trol and management thereof, by the votes or consent of a majority of the owners of the lands within their districts.

#### Record of by-laws.

Sec. 7. The by-laws adopted must be signed by persons owning a majority of the land within the district, and must be recorded by the county recorder in the same book and immediately following the petition.

#### Powers of trustees.

Sec. 8. The board thus formed have power to elect one of their number president thereof, and to employ engineers to survey, plan, locate, and estimate the cost of the works necessary for the irrigation, the water rights needed, and the land needed for right of way, including drains, canals, sluices, water gates, embankments, and material for construction, and to construct, maintain, and keep in repair all works necessary to the object in view.

#### Reports.

Sec. 9. The board of trustees must report to the board of supervisors of the county, or if the district is in more than one county then to the board of supervisors of each county, in which the district is situated, the plans of the work and estimates of the costs, together with estimates of the incidental expenses of superintendence, repairs, etc.

#### Assessments for benefits.

Sec. 10. The board by which the district was formed must appoint three commissioners, disinterested persons, resident of the county in which the district or some part thereof is situated, and must view and assess upon the lands situated within the district a charge proportionate to the whole expense and to the benefits which will result from such works, which charge must be collected and paid into the county treasury as hereinafter provided, and must be placed by the treasurer to the credit of the district, and paid out for the work of irrigation or drainage upon the warrants of the trustees, approved by the board of supervisors of the county.

#### Warrants.

Sec. 11. The warrants drawn by the trustees must, after they are approved by the board of

supervisors, be presented to the treasurer of the county, and if they are not paid on presentation, like indorsement must be made thereon, and they must be registered in like manner as county warrants.

Payments where district in two counties.

Sec. 12. If a district is situated partly in different counties, the charge must be paid into the treasury of the county in which the particular tract may be situated.

Further assessments.

Sec. 13. If the original assessment is insufficient to provide for the complete irrigation or drainage of the lands of the district, or if further assessments are from time to time required to provide for the protection, maintenance, and repair of the works, the trustees must present to the board of supervisors by which the district was formed a statement of the work to be done and its estimated cost, and the board must make an order directing the commissioners who made the original assessment, or other commissioners to be named in such order, to assess the amount of such estimated cost as a charge upon the lands within the district, which assessment must be made and collected in the same manner as the original assessment.

List of charges assessed.

Sec. 14. The commissioners appointed by the board of supervisors must make a list of the charges assessed against each tract of land.

List, what to contain.

Sec. 15. The list must contain:

1. A description, by legal subdivisions or natural boundaries, of each tract assessed;
2. The number of acres in each tract;
3. The names of the owners of each tract, if known, and if unknown, that fact;
4. The amount of the charge assessed against each tract.

List to be filed with treasurer.

Sec. 16. The list so made must be filed with the county treasurer of the county, or if the district is partly situated in different counties, then the original list must be filed in the county first in order under alphabetical arrangement, and copies thereof, certified by the commissioner, must be

filed with the treasurer of each of the other counties.

**Charges, when constitute liens.**

Sec. 17. From and after the filing of the list, or certified copy thereof, the charges assessed upon any tract of land within the county constitutes a lien thereon.

**Payments.**

Sec. 18. The lists thus prepared must remain in the office of the treasurer for thirty days, or longer if ordered by the board of trustees, and during the time they so remain any person may pay the amount of the charge against any tract to the treasurer, without cost.

**Action to collect charges.**

Sec. 19. If at the end of thirty days, or of the longer time fixed by the trustees, all of the charges have not been paid, the treasurer must return the lists to the district attorney, who must at once proceed by civil action to collect such charges.

**Work.**

Sec. 20. The work must be executed under the direction and in the manner prescribed by the board of trustees.

**Accounts.**

Sec. 21. The board must keep accurate accounts of all expenditures, which accounts, and all contracts that may be made by them, are open to the inspection of the board of supervisors and every person interested.

**Property may be acquired.**

Sec. 21. The trustees may acquire, by purchase, all property necessary to carry out and maintain the system of irrigation or drainage provided for.

**Condemnation.**

Sec. 22. The trustees may acquire by condemnation:

1. The right to the use of any running water not already used for culinary or domestic purposes, or for irrigating, milling, or mining purposes;

2. The right of way for canals, drains, embankments, and other work necessary, and may take materials for the construction, maintenance, and repair thereof, from lands outside of as well as within the limits of the district.



### Practice.

Sec. 23. The provisions of Title VII., Part III., of the Code of Civil Procedure, are applicable to, and the condemnation herein provided for must be made thereunder.

### Irrigation or drainage by individual owners.

Sec. 24. Whenever any district susceptible of one mode of irrigation or drainage is entirely owned by parties who desire to irrigate or drain the same, and to manage the irrigation or drainage without the intervention of trustees or the establishment of by-laws, they may file the petition provided for in sections one and two, and must state therein that they intend to undertake the irrigation or drainage on their own responsibility.

### Privileges of owners.

Sec. 25. If the petition is granted, the owners of the lands have all the rights, immunities, and privileges granted to boards of trustees, and in all proceedings the names of the owners may be used instead of the names of trustees.

### Not applicable to certain counties.

Sec. 26. This act shall not be so construed as applying to the counties of Fresno, Kern, Tulare, and Yolo.

Sec. 27. This act, and the provisions of the title of the Code of Civil Procedure herein referred to, so far as proceedings under this act are to be had, shall be in force from and after the passage of this act.

An act supplemental to an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887, providing for the abandonment of operations by irrigation districts and for their disorganization upon the discharge of all outstanding obligations, and dividing irrigation districts into classes for the purposes of this act.

[Approved March 25, 1893: Stats. 1893, p. 520.]

Section 1. Whenever a petition is presented to the board of directors of an irrigation district in  
Gen. Laws—46.

this state, organized under the provisions of "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven commonly known as the Wright law, signed by a majority of the assessment payers within said district, whose names appear upon the last preceding assessment roll of said district, asking for the abandonment of further operations by the district, the board of directors of said district shall call a special election, as provided in other cases for holding special elections in irrigation districts at which the question of such abandonment of further operations by the district shall be submitted: provided, that no district shall take advantage of the provisions of this act if there is any existing bonded indebtedness at the time of the presentation of such petition to said board. [Amendment approved March 31, 1897; Stats. 1897, ch. 178.]

Sec. 2. At such election the ballots used shall have written or printed thereon the words "Abandonment of operations—Yes," or "Abandonment of operations—No" and if three-fifths of the votes cast at such election shall be in favor of such abandonment of operations, then and in that event the board of directors shall enter upon their records the fact that said election has been held, and that three-fifths of the electors of said district voting at said election have voted at said election to abandon further operations by the district; and thereafter no further moneys shall be expended or indebtedness incurred or created or property acquired by said district for the construction or completion of any system of irrigation works, and no taxes or assessments shall thereafter be levied or collected by or in said district for the purpose of the further construction or completion of said work, and no bonds of said district shall ever thereafter be issued or sold or otherwise disposed of; and any lands which may have been bought in by the district for delinquent assessments, and the title to which still remains in the district, shall revert to the owner thereof at the time of such sale; provided all assessments for the non-pay-

ment of which the said lands were sold, be paid to the treasurer of the district within thirty days after such vote to abandon further operations by the district. The question of abandoning operations by any irrigation district shall not be submitted to a vote of the people of such district oftener than once in two years.

Sec. 3. The board of directors of said district shall sell and dispose of all the property of said district as soon after such vote to abandon further operations as it can be done without sacrificing any of said property; but no property shall be sold without notice to the creditors of such district by advertisement in such newspapers as will best bring the proposed sale to the notice of the creditors, such newspapers to be designated by the board of directors, and such notice to be given personally or by mail when possible. Such notice shall describe the property offered for sale, and fix a time and place where offers or bids for such property will be received, and such notice shall be so given not less than four weeks prior to the time so fixed for receiving such offers or bids. No lands bought in by the district for delinquent assessments shall be sold until thirty days after such vote to abandon further operations. The title to any of the property of said district sold by said board shall not vest in the purchaser thereof until notice of such sale shall have been given by said board by publication thereof for four successive weeks in a newspaper published in each of the counties in which any of the lands of said district are situated; or if there is any such county in which no newspaper is published, then by posting such notice in three or more conspicuous places in such county and within such district. Said notice shall contain a description of the property sold, the price offered, and terms of sale, and fix a time and place within said district for hearing any objections which may be made to such sale by any one interested in said district. Any such objection may be filed in writing with such board or the secretary thereof at any time after publication of said notice and prior to the day set for such hearing. If no such objections are filed, or if no increased offer for said property be made as hereinafter provided the board shall confirm said sale

and execute a conveyance of the property sold to the purchaser thereof. Such conveyance shall not be executed until the purchase price shall have been paid in full in cash, and sales of personal property shall be for cash only, but sales of real property may be for part cash and part deferred payments bearing interest at the legal rate, and in case of part deferred payments said board of directors may, on receipt of the cash payment, execute an agreement for a conveyance of said property whenever the purchase price thereof shall have been paid in full according to the terms of sale. If any objections be filed to such sale as hereinbefore provided, said board may vacate and refuse to confirm said sale; and if objections thereto be so made by a majority of the taxpayers of said district whose names appear on the last preceding assessment roll thereof, said board must vacate and refuse to confirm said sale. If any person shall at or prior to said hearing make or file with the said board or the secretary thereof a written offer to pay for said property at least ten per cent more than the price named in said notice of sale, accompanied by a certified check for ten per cent of the price so offered, then said board shall confirm said sale to such increased bidder, and if more than one such increased bid be received, then to the person offering the highest amount. The sale of any of the real property of said district by said board of directors, as hereinbefore provided, shall not affect or impair the lien of any outstanding bonds of said district upon such real property. Such sale shall only be of the interest of said district in such property, subject to the lien thereon of any bonded indebtedness of said district.

Sec. 4. The board of directors of said district shall apply all moneys of said district on hand at the time of such vote to abandon further operations, or thereafter realized from the sale of the property thereof, after payment of the legal and necessary expenses of the district, salaries of its officers, necessary incidental expenses, and accrued interest on the legally incurred and bona fide existing debt of said district, to the payment of any outstanding indebtedness of said district then due, and any moneys thereafter remaining

shall be immediately applied to the redemption of the outstanding bonded indebtedness of said district, or invested in the manner provided in section thirty-four of said Wright law.

Sec. 5. The obligations of irrigation districts which have voted to abandon further operations shall be governed by the same laws as apply to those of all other irrigation districts, and to the same extent as though said vote to abandon further operations had never been taken, and shall be paid and discharged in the same manner and under the same laws as the obligations of other irrigation districts which have not voted to abandon further operations are paid and discharged; and all laws governing the affairs of irrigation districts within this state shall apply to and govern irrigation districts which have voted to abandon further operations, to the same extent as though said vote had never been taken, except where it is otherwise expressly provided in this act.

Sec. 6. Whenever all the property of such irrigation district shall have been disposed of, and all the indebtedness and obligations thereof, if any there be, including the bonds and all accrued interest thereon, shall have been paid and discharged, and thirty days shall have expired after such vote to abandon further operations, the directors of said district shall file in the superior court of the county wherein the lands of said district or a portion thereof are situated, a petition setting forth the facts that the electors of said district have voted to abandon further operations by the district as required by this act, and that all the property of said district has been disposed of, and all its indebtedness and obligations, if any there may have been, including the bonds and all accrued interests thereon, have been paid and discharged, and praying that a decree be made and entered by said court disorganizing said district. On the entry of such decree, said board and all the officers of said district shall deliver over to the clerk of said court all books, papers, records, and documents belonging to said district, or in their possession, or under their control as officers thereof, and the treasurer of the district shall pay over to the treasurer of the county wherein said petition

is filed any balance of moneys of said district remaining in his hands, and each assessment payer in said district shall be entitled to receive such proportion thereof as he shall have contributed to the total amount of assessments collected by said district.

Sec. 7. Upon the filing of said petition with the clerk of said superior court, the judge thereof must make an order directing that any person interested in said irrigation district may, at a time and place specified, not less than eight nor more than twelve weeks from the time of making such order, appear and show cause, if any there be, why a decree of said court should not be made disorganizing said irrigation district. A copy of said order shall be published at least three successive weeks before the time appointed for the hearing of said petition in a newspaper to be designated by the court, in each of the counties in which any of the lands of said district are situated; or if there is any such county in which no newspaper is published, then in a newspaper published in an adjoining county, to be designated by the court. The affidavit of the proprietor, foreman, or chief clerk of any newspaper in which such notice is published shall be competent proof of such publication.

Sec. 8. At or before the time set for the hearing of said petition, any person may show cause, if any he have, why the said petition should not be granted, and may then and there join issue of law or fact, or both, upon said petition. Said proceeding shall be governed by the rules governing civil actions. If upon the hearing of said petition by said superior court the aforesaid facts required to be alleged in said petition are proven by competent evidence, it shall be the duty of said superior court to make findings in accordance with such allegations and proof, and to enter a judgment and decree disorganizing said irrigation district. The petition, order fixing time and place of hearing same, with proof of the publication thereof, objections thereto, if any, findings, and decree of disorganization shall constitute the judgment roll in said proceeding; and from the judgment an appeal may be taken to the supreme court, as from a judgment of the superior court in civil actions. Said decree of disorganization shall be filed in the office of the county clerk, and recorded in the



office of the county recorder of each of the counties wherein any of the lands of said irrigation district are situated.

Sec 9. This act shall take effect immediately.

An act to provide for the leasing and disposition of water for generation of power for mechanical purposes, by irrigation districts organized or to be organized under and pursuant to an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March 7, 1887.

[Approved March 23, 1893; Stats. 1893, p. 295.]

Section 1. Whenever any irrigation district formed, or to be formed, under and pursuant to the provisions of an act entitled "An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes," approved March seventh, eighteen hundred and eighty-seven, in the development of its works, as in said act provided, may have opportunity, without increased expenditure, to utilize the water by it owned or controlled for mechanical purposes not inconsistent with the provisions of said act, the board of directors may lease the same, as in this act hereinafter provided.

Sec. 2. Whenever the board of directors may desire to lease the use of water, as hereinbefore stated, they shall pass a resolution of intention to so lease the same. Immediately thereafter the secretary shall cause notice of such intention to be given by publication in one newspaper published in each county in which lands of the district are situated for at least twenty days (provided, a newspaper is published therein, otherwise in any newspaper the board of directors may select), and in such newspapers as may be deemed advisable, calling for bids for the leasing of said water for the purposes hereinbefore mentioned. Said no-

tice shall state that the board will receive sealed proposals therefor, that the lease will be let to the highest responsible bidder, stating the time and place of opening said proposals.

Sec. 3. At the time and place appointed the board shall proceed to open the proposals in public. As soon thereafter as may be convenient the board shall let said lease in portions, or as a whole, to the highest responsible bidder, or they may reject any or all bids, and readvertise for proposals for the same.

Sec. 4. The rental accruing upon said lease may vary from year to year, as shall be specified in said lease, and shall be payable semi-annually, on the thirtieth day of December and thirtieth day of June of each year. All moneys collected, as in this act provided, shall be paid into the treasury, and be used in the manner provided in section thirty-four of said act, except that the period of ten years, as mentioned in said section thirty-four, shall not be applicable to the provisions of this act; provided, however, that if any coupons on any outstanding bonds of such district are at any time due and payable, and there shall for any reason not be sufficient funds in the interest fund to pay the same, the proceeds so collected, as in this act provided, may be used to pay the same.

Sec. 5. The board shall have power, as in this act provided, to execute a lease for any period not exceeding fifty years. If at any time the rental shall not be paid on the days hereinbefore mentioned, the amount of such rental then due shall be doubled, and if not paid within ninety days thereafter, the said lease shall be forfeited to said district, together with any and all works constructed, owned, used, or controlled by said lessee.

Sec. 6. Upon the letting of any lease, as in this act provided, the board may require the lessee to execute a bond for the payment of the rental, and proper performance of the said lease, or give such other evidence of good faith as in their judgment may be necessary.

Sec. 7. This act shall take effect immediately.

## TITLE 137.

## JAPANESE GOVERNMENT.

An act making an appropriation for reimbursing the Japanese government for moneys expended in the extradition of Calvin Pratt, a fugitive from the justice of this state, and to provide for transmitting the same to Japan. *J*

[Approved March 31, 1891; Stats. 1891, p. 222.]

The nature of the act appears from the title.

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## TITLE 138.

JUDGES OF THE PLAINS. *Refer*

The Political Code, sec. 19, continued in force all acts in relation to judges of the plains.

These acts can be found in Deering's Annotated Penal Code, pp. 599-601.

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## TITLE 139.

## JUDGMENTS.

An act prescribing how judgments which may be recovered against any city and county of over one hundred thousand population shall be paid. *n*

[Stat. approved March 26, 1895; Stats. 1895, chap. clix.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Section 1. All existing judgments against any city and county of over one hundred thousand population shall be paid by the treasurer of such city and county, out of the or any general fund thereof, after the same shall have been audited by the auditor, auditing officer, board, or other auditing officer or officers, and it is hereby made the duty

of the board of supervisors and mayor of such city and county to include in the tax levy for any fiscal year a sum sufficient to pay existing judgments.

Sec. 2. This act shall take effect and be in force immediately after its passage.

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## TITLE 140.

### JUSTICES OF THE PEACE.

Acts relating to: See Code of Civil Procedure, Appendix, title, Justices of the Peace, p. 857 et seq.

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## TITLE 141.

### JUTE GOODS.

Jute factory at the state's prison: See Penal Code, title, State's Prisons, pp. 686, 687.

An act fixing the price and conditions of sale at which jute goods shall be sold by the state.

[Approved February 27, 1893; Stats. 1893, p. 54.]

The object of the act appears from the title.

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## TITLE 142.

### KERN COUNTY.

A reference to local acts relating to Kern county is contained in Deering's Annotated Penal Code, p. 601.

## TITLE 143.

## KINGS COUNTY.

An act to create the county of Kings, to define the boundaries thereof, to fix the county seat thereof, and to provide for its organization and election of officers, and to classify said county.

This act was approved March 22, 1893; Stats. 1893, p. 176.

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## TITLE 144.

## KLAMATH COUNTY.

A reference to special acts relating to can be found in Deering's Annotated Penal Code, p. 601.

Consult the following acts:

An act to annex the territory comprised in the present county of Klamath to the counties of Humboldt and Siskiyou.

[Approved March 28, 1874; 1873-4, 755.]

An act amendatory of and supplementary to the foregoing act of March twenty-eight, eighteen hundred and seventy-four.

[Approved March 31, 1876; 1875-6, 603.]

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## TITLE 145.

## LABOR STATISTICS.

Consult the following acts:

An act to establish and support a bureau of labor Statistics.

[Approved March 3, 1883; 1883, 27.]

This act was amended February 8, 1889, Stats. 1889, p. 8.

An act to appropriate money for the support of the bureau of labor statistics.

[Approved March 5, 1885; 1885, 26.]

This act appropriated one thousand six hundred and fifteen dollars.

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## TITLE 146.

### LAKE COUNTY.

A reference to special acts relating to Lake county is contained in Deering's Annotated Penal Code, pp. 604, 605.

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## TITLE 147.

### LAKE TAHOE.

Consult the following acts:

An act to create the office of Lake Tahoe wagon-road commissioner, providing the term of office and compensation of such commissioner, defining his duties, and making an appropriation for the salary and expenditures provided for and authorized by this act.

[Stat. approved April 1, 1897; Stats. 1897, chap. ccxlv.]

An act to authorize the state of California to secure the title to and right of way for that certain wagon-road situated in El Dorado county, commencing a short distance easterly from the village of Smith's Flat, in said county, and running thence to Lake Tahoe, and to provide for the appointment, duties, and compensation of a person, to be known as and called the "Lake Tahoe Wagon-road Commissioner," and to make an appropriation, for the purpose of carrying into effect the provisions of this act.

[Approved March 26, 1895; Stats. 1895, p. 119.]



## TITLE 148.

## LANDS OF STATE.

See Public Lands; Settlers; State Lands.

A reference to the legislation on this subject is contained in Deering's Annotated Penal Code, p. 605, et seq.

*Rev Penal Code 3395*

## TITLE 149.

## LARCENY.

Acts relating to: See Penal Code, Appendix, title Larceny, p. 582.

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## TITLE 150.

## LASSEN COUNTY.

The special acts relating to Lassen county are referred to in Deering's Annotated Penal Code, pp. 613 and 614.

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## TITLE 151.

## LEGAL TENDER.

An act in relation to the currency of the United States.

[Approved, March 12, 1880; 1880, 8 (Ban. ed. 28)]

Legal tender notes to be received at par.

Section 1. All legal tender notes heretofore issued, or which may hereafter be issued, by the government of the United States of America, as legal-tender notes, shall be received at par in payment for all taxes due or to become due to this state, or to any county or municipal corporation thereof, and such notes shall be a legal tender for all debts, dues, and demands between citizens of this state.

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*Rev Penal 32*

Sec. 2. All acts, and the provisions of any act or parts of acts, conflicting with this act are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

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## TITLE 152.

### LEGISLATION.

An act for the creation of a commission for the promotion of uniformity of legislation in the United States, and to appropriate money for its expenses.

[Stat. Approved, March 9, 1897; Stats. 1897; chap. lxxx.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. Within thirty days after the passage of this act the governor shall appoint three commissioners, who are hereby constituted a board of commissioners by the name and style of "Commissioners for the promotion of Uniformity of Legislation in the United States." It shall be the duty of said board to examine the subjects of marriage and divorce, insolvency, the form of notarial certificates, descent and distribution of property, acknowledgment of deeds, execution, and probate of wills, and other subjects, to ascertain the best means to effect an assimilation and uniformity in the laws of the states, and to represent the state of California in conventions of like commissions to consider and draft uniform laws to be submitted for the approval and adoption of the several states; and to devise and recommend such other course of action as shall best accomplish the purpose of this act.

Sec. 2. That said commission shall be allowed, for their traveling and other expenses in effectuating the object of this act, a sum not exceeding five hundred dollars in the aggregate for any one year.

Sec. 3. The sum of one thousand dollars is hereby appropriated for the expenses of said commis-

sion out of any moneys not otherwise appropriated.

Sec. 4. This act shall take effect from and after its passage.

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## TITLE 153.

### LEGISLATIVE DISTRICTS.

An act to divide the state into legislative districts, as required by section six, article four, of the constitution, and to provide for the election of assemblymen and senators in such districts.

[Approved March 11, 1891; Stats. 1891, p. 71.]

Consult the statutes of 1891 for the act.

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## TITLE 154.

### LEVEE DISTRICTS.

An act amendatory of and supplementary to an act entitled "An act to define the boundary and provide for the government of levee district number two, of Sutter county," passed March 23, 1876, in relation to the election of officers for said district, funding the floating debt, and refunding the funded debt thereof.

This act was approved March 23, 1893, Stats. 1893, p. 199, and was also amended March 27, 1895, Stats. 1895, p. 236.

The act entitled "An act to provide for the organization and government of levee districts created for the protection of lands from overflow of innavigable running streams of water, and to confine innavigable running streams to a fixed channel." approved March 10, 1891, containing sections 1 to 41, was repealed March 9, 1893, Stats. 1893, p. 111, sec. 2.

An act providing for appeals from orders of the board of supervisors forming or refusing to form reclamation or swamp-land districts, setting off lands from such districts, or including lands in such districts, or consolidating swamp-land or reclamation districts.

[Approved March 11, 1893; Stats. 1893, p. 174.]

Section 1. Any person having an interest affected by any order of the board of supervisors of any county, approving or refusing to approve any petition for the formation of a reclamation or swamp-land reclamation district, or in any manner creating or consolidating such districts, or including in or excluding from such district, any lands, may, within thirty days after said order is made, appeal therefrom to the superior court of the county.

Sec. 2. Such appeal shall be taken and prosecuted in the manner prescribed by law and the rules of said superior court relating to appeals from inferior courts, and the matter shall be tried anew in said superior court. The judgment rendered in the superior court in such matter shall be final. Each superior court held in any county of the state in which there are any reclamation or swamp-land reclamation districts shall make rules regulating appeals in the cases hereinbefore mentioned; and the clerk of the board of supervisors shall, upon a notice of appeal and undertaking on appeal being filed with him, transmit the same, and all papers and documents used on the hearing before said board, to the clerk of the superior court in and for said county, who shall thereupon file the same without receiving any fee therefor.

Sec. 3. This act shall take effect and be in force from and after its passage.

Sec. 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

An act to provide for funding the indebtedness of levee district number six, of Sutter county, and to provide for the payment of such funded debt.

This act was approved March 21, 1891, and will be found in Statutes 1891, p. 235.

An act to define the boundary and provide for the government of levee district number six, of Sutter county, California.

[Approved March 31, 1891; Stats. 1891, p. 237.] *Am*

This act was approved March 31, 1891, and will be found in the statutes of 1891, p. 237.

An act providing for the payment of all moneys in the state treasury to the credit of swamp-land district funds to the treasuries of the counties wherein the said swamp-land districts are situated, and to provide for the control of the same by the auditor and treasurer of said counties, and prescribing the duties of the controller and treasurer in relation thereto. *7*

[Approved March 31, 1891; Stats. 1891, p. 243.]

The purpose of the act appears from the title.

An act to provide for the funding and refunding of the indebtedness of levee and protection districts.

[Stat. Approved April 1, 1897; Stats. 1897; chap. cclxvi.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. The board of directors or trustees of any levee or protection district having an outstanding indebtedness of not less than twenty thousand dollars, evidenced by bonds or warrants of such district, by a vote of two-thirds of all the members thereof, are empowered, if they deem it for the best interest of such district to fund and refund the same, or any part thereof, and issue bonds of such district therefor, in sums of not less than one hundred dollars nor more than one thousand dollars each, having not more than twenty years to run, and bearing a rate of interest not exceeding seven per cent per annum, payable semi-annually, which bonds shall be substantially in the following form:

No. —. (Name of district), in the county of —, state of California, for value received, promises to pay —, or order, at the office of the treasurer of said district, in —, California, on

or before the first day of —, 19—, the sum of — dollars, in gold coin of the United States, with interest at the rate of — per cent per annum, payable at the office of said treasurer semi-annually, on the first day of — and — in each year, on presentation and surrender of the interest coupons hereto attached. This bond is issued by the board of — of said district in conformity with a resolution of said board, dated the — day of —, eighteen hundred and —, and under authority conferred upon said board by the provisions of an act of the legislature of California, entitled "An act to provide for the funding and refunding of the indebtedness of levee and protection districts," approved (insert date of approval of the act).

In testimony whereof, the said district, by its board of —, has caused this bond to be signed by the chairman of said board, and attested by the auditor of — county, with his seal of office attached, this —day of —, 18—.

\_\_\_\_\_,  
Chairman of said Board.

Attest: \_\_\_\_\_, Auditor of —county.

And the interest coupons shall be in the following form:

The treasurer of (name of district) will pay to the holder hereof, on the — day of —, 1—, at his office in —, — dollars, gold coin, for interest on bond of said district numbered —.

Sec. 2. Bonds issued under this act shall be numbered consecutively, signed by the chairman of the board of directors, or trustees, as the case may be, and delivered to the auditor of the county in which the levee or protection district is situated, who shall countersign the same and affix thereto his official seal, and shall by him be delivered to the treasurer of the district, who shall deliver to such auditor his receipt therefor, and said treasurer shall stand charged on his official bond with all bonds delivered to him and the proceeds thereof, and he shall sell the same or exchange them under the direction of the board of directors or trustees of such levee or protection district, on the best available terms, for any legal indebtedness of such district, but in neither case for a less sum than the face value of the bonds and all interest accrued thereon at the date of such sale or ex-



change; and if any portion of such bonds are sold for money, the proceeds thereof shall be applied exclusively to the payment of liabilities existing against the district at the date last above named. When they are exchanged for bonds or warrants or other legal evidences of district indebtedness, the treasurer shall at once cancel such evidences of indebtedness by indorsing thereon the amount for which they were received, the word "canceled" and the date of cancellation. He shall keep a record of all bonds sold or exchanged by him, by number, date of sale, amount, date of maturity, the name and post office address of the purchasers, and, if exchanged, what evidence of indebtedness was received therefor, which record shall be open at all times for public inspection. No such bond shall be sold or exchanged for any indebtedness of the district except by the approval of the board of directors or trustees thereof.

Sec. 3. The board of directors or trustees shall cause to be assessed and levied each year upon the assessable property of the district, in addition to the levy authorized for other purposes, a sufficient sum to pay the interest on outstanding bonds, issued in conformity with the provisions of this act, accruing before the next annual levy, and such proportion of the principal, that at the end of five years the sum raised from such levies shall equal at least twenty per cent of the amount of bonds issued, at the end of nine years at least forty per cent of the amount, and at and before the date of maturity of the bonds shall be equal to the whole amount of the principal, and the money arising from such levies shall be known as the bond fund, and shall be used for the payment of bonds and interest coupons, and for no other purpose whatever; and the treasurer shall open and keep in his books a separate and special account thereof, which at all times shall show the exact condition of said bond fund.

Sec. 4. Whenever there shall be in the bond fund of such district a surplus of five hundred dollars or more, over and above the interest maturing before the next levy, the treasurer shall give notice for two weeks in one or more newspapers of general circulation, printed and published in the county in which such district is situated, stating the amount of such surplus, and that on the day and

hour named in such notice, sealed proposals will be received at his office for the surrender of bonds of the district, and shall at the time and place named open the proposals and accept the lowest bid; provided, that no bid shall be accepted for an amount exceeding the par value of such bonds with accrued interest; if bids are not offered at par, or less, sufficient to exhaust the amount on hand applicable to redemption, the treasurer shall publish for the same time and in the same manner a notice that he will redeem a bond or bonds of said district, giving the number or numbers thereof, and that if not presented for redemption within thirty days after the date of the first publication of such notice, the interest thereon will cease, and the amount due thereon will be set aside for the payment of such bond or bonds whenever presented. If any such bond be not so presented, interest thereon shall cease, and the amount due thereon shall be set aside as specified in said notice. All redemption of bonds other than those voluntarily surrendered shall be made in the exact order of their issuance, beginning with the lowest or first number.

Sec. 5. This act shall take effect immediately.

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## TITLE 155.

### LIBEL.

Acts relating to: See Code of Civil Procedure, appendix, title Libel, p. 861.

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## TITLE 156.

### LIBRARIES AND READING-ROOMS.

An act to establish free public libraries and reading-rooms.

[Approved April 26, 1880; 1880, 231 (Ban. ed. 524).]

Consult the statutes of 1880 for the act.

## TITLE 157.

LIBRARIES, LAW. *In a box*

Consult the following acts:

As to supreme court library: See Pol. Code, sec. 2313.

An act to establish Law Libraries; approved March 31, 1891; Stats. 1891, p. 430.

Act amendatory of this act passed March 12, 1895, Stats. 1895, p. 46.

Library, San Francisco, Law, act relating to: See Stats. 1880, p. 40.

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## TITLE 158.

## LICENSE COLLECTOR.

An act authorizing the payment of salaries by boards of supervisors to persons who have been employed to collect county licenses, and legalizing all payments heretofore made to such persons.

[Stat. approved March 27, 1895; Stats. 1895, chap. ccvi.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. That the board of supervisors of any county in which such board has appointed persons to collect the county license, are hereby empowered and directed to pay to any person so appointed, and who have actually performed services in collecting such licenses, the amount agreed upon as compensation for such services at the time of such appointment; provided, that no such payment shall be made for services rendered after the passage of this act.

Sec. 2. All acts of such board in making such appointment and payment made by them for services heretofore rendered in the collection of such licenses, are hereby approved and legalized.

Sec. 3. This act shall take effect and be in force from and after its passage.

## TITLE 159.

## LICENSES.

An act to prohibit the issuance of licenses to aliens not eligible to become electors of the state of California.

[Approved April 12, 1880; Stats. 1880, p. 39.]

See ante, title, Aliens.

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## TITLE 160.

## LIENS.

Acts relating to: See Civil Code, Appendix, title, Liens, p. 795 et seq.

Act to secure lien on live stock, kept, fed, or pastured by ranchmen and stable keepers; Stats. 1869-70, p. 723, was not repealed by the codes, Johnson v. Perry, 53 Cal. 351.

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## TITLE 161.

## LIGHTHOUSES.

An act concerning submarine sites for lighthouses and other aids to navigation on the coast of this state.

[Approved March 26, 1874; 1873-4, 621.]

Sites for beacons, etc.

Section 1. Whenever the United States desire to acquire title to land belonging to the state, and covered by the navigable waters of the United States, within the limits thereof, for the site of lighthouse, beacon, or other aid to navigation, and application is made by a duly authorized agent of the United States, describing the site required for one of the purposes aforesaid, then the governor of the state is authorized and empowered to convey the title to the United States, and to cede to the said United

States jurisdiction over the same; provided, no single tract shall contain more than ten acres, and that the state shall retain concurrent jurisdiction so far that all process, civil or criminal, issuing under the authority of the state, may be executed by the proper officers thereof, upon any person or persons amenable to the same, within the limits of land so ceded, in like manner and to like effect as if this act had never been passed.

Sec. 2. This act shall take effect immediately.

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## TITLE 162.

### LIQUOR.

In addition to the provisions of the Penal Code in relation to the sale of liquors, secs. 299-307, several statutes are in force.

A reference to these acts is contained in Deering's Annotated Penal Code, p. 616.

## TITLE 163.

### LODGING HOUSES.

Acts relating to: See Civil Code, Appendix, title, Lodging Houses, p. 801; Penal Code, Appendix, title, Lodging Houses, p. 583.

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## TITLE 164.

### LOGS.

An act to establish a scale for the measurement of logs.

[Approved March 28, 1878; 1877-8, 604.]

## TITLE 165.

### LOS ANGELES COUNTY.

A reference to local acts affecting Los Angeles county is contained in Deering's Annotated Penal Code, p. 620, et seq.

## TITLE 166.

## LOST WARRANTS.

An act to provide for the payment of the controller of state's warrants which have been lost or destroyed previous to payment by the state treasurer.

[Approved March 31, 1891; Stats. 1891, p. 294.]

Section 1. Whenever any warrant legally drawn by the controller of state shall have been lost or destroyed before the same has been paid by the state treasurer, the amount due thereon may be recovered by the legal owner or custodian thereof, by filing with the controller of state,—

First. An affidavit setting forth the fact of the loss or destruction of such state warrant, giving the number, date, amount, and name of the payee, together with all material facts relative to the loss or destruction of the same.

Second. A bond of indemnity, with two good and sufficient sureties, in double the amount of the face of the particular warrant, which bond shall be referred to the attorney general and controller of state for approval or rejection.

Sec. 2. It shall be the duty of the attorney general and of the controller of state to examine and pass upon the sufficiency of the said bond, and to approve or reject the same, within thirty days after it shall have been filed with the controller of state.

Sec. 3. After the filing of the approved bond, the controller of state is hereby authorized and directed to issue and deliver to the legal owner or claimant, on demand, a duplicate warrant for the full amount of the original warrant, and the treasurer of state is hereby authorized and directed to pay the duplicate, in lieu of the original warrant.

Sec. 4. The controller and treasurer shall each make the proper entries on their books, showing such warrants to have been lost or destroyed, and the issuance of duplicate warrants in lieu thereof



## TITLE 167.

## LUMBER MANUFACTURERS.

Acts relating to: See Penal Code, Appendix, title, Lumber Manufacturers, p. 584.

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## TITLE 168.

## MADERA COUNTY.

An act to create the county of Madera, to define the boundaries thereof, to determine the county seat, and to provide for its organization and election of officers, and to classify said county.

[Approved March 11, 1893; Stats. 1893, p. 168.]

Consult the statutes of 1893 for the act.

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## TITLE 169.

## MANUFACTURED GOODS.

Acts relating to: See Penal Code, Appendix, title, Manufactured Goods, p. 585.

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## TITLE 170.

## MAPS.

An act requiring the recording of maps of cities, towns, additions to cities or towns, or subdivisions of lands into small lots or tracts for the purposes of sale, and providing a penalty for the selling or offering for sale any lots or tracts in cities, towns, additions to cities, towns, subdivisions, or additions thereto, before such maps are filed and recorded.

[Approved March 9, 1893; Stats. 1893, p. 96.]

Section 1. Whenever any city, town, or subdivision of land into lots, or any addition to any city, town, or such subdivision, shall be laid out into lots for the purposes of sale, the proprietor or pro-

prietors thereof shall cause to be made out an accurate map or plat thereof, particularly setting forth and describing,—

First. All the parcels of ground within such city, town, addition, or subdivision reserved for public purposes, by their boundaries, courses, and extent, whether they be intended for avenues, streets, lanes, alleys, courts, commons, or other public uses; and,

Second. All lots intended for sale, either by number or letter, and their precise length and width.

Sec. 2. Such map or plat shall be acknowledged by the proprietor, or if any incorporated company, by the chief officer thereof, before some officer authorized by law to take the acknowledgment of conveyances of real estate.

Sec. 3. The map or plat so made, acknowledged, and certified shall be filed in the office of the county recorder of the county in which the city, town, addition, or subdivision is situated.

Sec. 4. Every person who sells or offers for sale any lot within any city, town, subdivision, or addition, before the map or plat thereof is made out, acknowledged, filed, as herein provided, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars and not more than five hundred dollars, or by imprisonment in the county jail not to exceed six months, or both such fine and imprisonment.

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## TITLE 171.

### MARIN COUNTY.

A reference to local acts affecting Marin county is contained in Deering's Annotated Penal Code, p. 622, et seq.

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## TITLE 172.

### MARIPOSA COUNTY.

A reference to the local acts relating to Mariposa county is contained in Deering's Annotated Penal Code, p. 624.

## TITLE 173.

### MARKS AND BRANDS.

The general law in force in relation to marks and brands will be found in the Political Code, sec. 3167 et seq. As to one county, however, there is a special and local law, continued in force by the Political Code, sec. 19, subd. 11, which may be referred to in this place, as follows: An act concerning marks and brands in the county of Siskiyou, approved March 20, 1866; 1865-6, 332.

*Rw. Pol 3167*

## TITLE 174.

### MARSHALL MONUMENT.

An act to provide for the appointment of a guardian for the Marshall monument and grounds, prescribing his duties, and appropriating money therefor.

[Approved March 31, 1891; Stats. 1891, p. 424.]

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## TITLE 175.

### MASTER AND SERVANT.

Act to protect wages, salaries, and fees: Penal Code, Appendix, title, Master and Servant, p. 586.

*Rw. Pen 586*

## TITLE 176.

### MECHANICS' INSTITUTE.

Acts relating to: See Civil Code, Appendix, title, Mechanics' Institute, p. 737.

*Rw. CC 737*

## TITLE 177.

## MEDICINE.

An act to regulate the practice of medicine in the state of California.

[Approved April 3, 1876; 1875-6, 792. See supplemental act, post.]

Persons practicing medicine and surgery to present diploma to board.

Section 1. Every person in this state practicing medicine or surgery, in any of its departments, shall possess the qualifications required by this act. Every such person shall present his diploma to one of the boards of examiners herein named, together with the affidavit mentioned in section three (3) of this act. If the board shall find all the facts required to be stated in said affidavit to be true, the board of examiners shall issue its certificate to that effect, signed by all the members thereof, and sealed with the seal of the board, and such certificate shall be conclusive as to the right of the person named therein to practice medicine and surgery in any part of this state. [Amendment became a law and took effect April 1, 1878; 1877-8, 918.]

Board of examiners appointed by what.

Sec. 2. The Medical Society of the State of California, the Eclectic Medical Society of the State of California, and the California State Homeopathic Medical Society, corporations organized and existing under and by virtue of the laws of this state, and no other corporation, society, persons, or person, shall appoint annually a board of examiners, consisting of seven members, who shall hold their office for one year and until their successors shall be chosen. The examiners so appointed shall go before a district or county judge and make oath that they are regular graduates, and that they will faithfully perform the duties of their office. Vacancies occurring in a board of examiners shall be filled by the society appointing it, by the selection of alternates, or otherwise. The board of examiners now organized, or existing un-

der and by virtue of their appointments by the aforesaid societies, shall continue to act as such boards until their successors are appointed at the next annual election. [Amendment became a law and took effect April 1, 1878; 1877-8, 918.]

#### Powers and duties of examiners.

Sec. 3. The board of examiners shall organize within three months after the passage of this act. They shall procure a seal, and shall receive, through their secretary, applications for certificates and examinations. The president of each board shall have authority to administer oaths, and the board take testimony in all meetings relating to their duties. They shall issue certificates to all who furnish satisfactory proof of having received diplomas or licenses from legally chartered medical institutions in good standing. They shall prepare two forms of certificates, one for persons in possession of diplomas or licenses, the other for candidates examined by the board. They shall furnish to the county clerks of the several counties a list of all persons receiving certificates. In selecting places to hold their meetings, they shall, as far as is reasonable, accommodate applicants residing in different sections of the state, and due notice shall be published of all their meetings. Certificates shall be signed by all the members of the board granting them, and shall indicate the medical society to which the examining board is attached.

#### Board to examine diplomas.

Sec. 4. Said board of examiners shall examine diplomas as to their genuineness, and if the diploma shall be found genuine, as represented, the secretary of the board of examiners shall receive a fee of five dollars from each graduate or licentiate, and no further charge shall be made to the applicant; but if it be found to be fraudulent, or not lawfully owned by the possessor, the board shall be entitled to charge and collect twenty dollars of the applicant presenting such diploma. The applicant shall accompany his diploma with an affidavit stating that he is the lawful possessor of the same, that he is the person therein named, that the diploma was procured in the regular course of medical instruction, and without fraud

or misrepresentation of any kind, and that the medical institution granting the diploma had, at the time of the granting the same, a full corps of medical instructors, and was at the said time a legally incorporated institution, actually and in good faith engaged in the business of medical education, and in good standing as a medical institution, and that the applicant had complied with all the requirements of said institution. Such affidavit may be taken before any person authorized to administer oaths, and the same shall be attested under the hand and official seal of such officer, if he have a seal. In addition to such affidavit, the board of examiners may hear such further testimony as in their discretion they may deem proper to hear, as to the verification of any such diploma, or as to the identity of the person named therein, or as to the manner in which any such diploma was procured, and if it should appear from such testimony that any fact stated in said affidavit is untrue, the application of such person for a certificate shall be rejected. None of said boards shall entertain an application which has been rejected by another of said boards, nor shall any rejected application be renewed until at least one year after the action of the board rejecting the same. [Amendment became a law and took effect April 1, 1878; 1877-8, 918.]

#### Examination of applicants.

Sec. 5. All examinations of persons not graduates or licentiates shall be made directly by the board, and the certificates given by the boards shall authorize the possessor to practice medicine and surgery in the state of California; but no examination into the qualifications of persons not holding diplomas or licenses shall be made after the thirty-first day of December, eighteen hundred and seventy-six. After that date no certificates shall be granted by them, except to persons presenting diplomas or licenses from legally chartered medical institutions in good standing.

#### Certificates to be recorded.

Sec. 6. Every person holding a certificate from a board of examiners shall have it recorded in the office of the clerk of the county in which he resides, and the record shall be indorsed thereon.



Any person removing to another county to practice shall procure an indorsement to that effect on the certificate from the county clerk, and shall record the certificate in like manner in the county to which he removes, and the holder of the certificate shall pay to the county clerk the usual fees for making the record.

Clerk to keep register.

Sec. 7. The county clerk shall keep, in a book provided for the purpose, a complete list of the certificates recorded by him, with the date of issue and the name of the medical society represented by the board of examiners issuing them. If the certificate be based on a diploma or license, he shall record the name of the medical institution conferring it, and the date when conferred. The register of the county clerk shall be open to public inspection during business hours.

Fees for examination.

Sec. 8. Candidates for examination shall pay a fee of five dollars in advance, which shall be returned to them if a certificate be refused. The fees received by the board shall be paid into the treasury of the medical society by which the board shall have been appointed, and the expenses and compensation of the board shall be subject to arrangement with the society.

Examinations.

Sec. 9. Examinations may be in whole or in part in writing, and shall be of an elementary and practical character, but sufficiently strict to test the qualifications of the candidate as a practitioner.

Refusal of certificates for unprofessional conduct.

Sec. 10. The board of examiners must refuse certificates to individuals guilty of unprofessional conduct. But before any such refusal, the applicant must be cited by a citation signed by the secretary of the board, and sealed with its seal, to appear before the board at a time and place certain for the purpose of being heard as to such unprofessional conduct. Said citation shall notify the applicant of the time and place where and when the matter of said unprofessional conduct shall be heard, the particular unprofessional conduct with which the applicant is charged, and that

the applicant shall then and there appear in person, and attended with such witnesses to testify on his behalf as he may desire, or default will be taken against him, and his application for a certificate refused. The attendance of witnesses at such hearing shall be compelled by subpoenas issued by the secretary of the board under its seal; and said secretary shall in no case refuse to issue any such subpoena on a fee of fifty cents being paid to him for each subpoena. Said citations and said subpoenas shall be served in accordance with existing provisions of law as to the service of citations and subpoenas generally. At such hearing witnesses shall be examined on the part of the board and on the part of the applicant as to the fact of the applicant having been guilty of the conduct set out in the citation, and either side may examine medical experts as to whether such conduct is unprofessional; and if it appear to the satisfaction of the board that the applicant is guilty of said unprofessional conduct, no certificate shall be issued to him. But no application shall be refused on the ground of unprofessional conduct unless the applicant has been guilty of unprofessional conduct within one year next preceding his application. If any holder of a certificate be guilty of unprofessional conduct, his certificate must be revoked by the board granting it; but no such revocation shall be valid without said holder being cited to appear, and the same proceedings be had as is hereinbefore provided in this section in the case of refusal to grant a certificate. Whenever a certificate is revoked, the secretary of the board revoking the same shall certify the fact, under the seal of the board, to the county clerk of the county in which the person whose certificate has been revoked is at the time of said revocation practicing his profession, and said clerk shall thereupon write on the margin, or across the face of his register of the certificate of such person, the fact of such revocation, signing his name thereto, and shall file in his office said certificate of revocation. Each of said boards may, from time to time, adopt such rules as may be necessary to the orderly conduct of all proceedings taken and had before it. It shall be the duty of the secretary of the respective boards to notify the secretary of all other boards provided for under this act of all

applicants to whom licenses may have been refused, together with the reasons of such refusal by such boards. [Amendment became a law and took effect April 1, 1878; 1877-8, 919.]

Practice of medicine defined.

Sec. 11. Any person shall be regarded as practicing medicine, within the meaning of this act, who shall profess publicly to be a physician, or who shall habitually prescribe for the sick, or who shall append to his name the letters "M. D."; but nothing herein contained shall be construed to prohibit gratuitous services in cases of emergency. And this act, and the act to which this act is supplemental and amendatory, shall not apply to lawfully commissioned surgeons of the United States army or navy practicing their profession within the limits of this state. [Amendment became a law and took effect April 1, 1878; 1877-8, 919.]

License imposed on certain persons.

Sec. 12. Any itinerant vendor who shall sell, or offer for sale, any drug, nostrum, ointment, or appliance of any kind intended for the treatment of disease or injury, or any person who shall, by writing or printing, or by any other method, publicly profess to cure or treat disease, injury, or deformity by any medicine, drug, or drugs, nostrum, manipulation, or other expedient, shall pay a license of one hundred dollars a month. Such license shall be collected as other licenses are. [Amendment became a law and took effect April 1, 1878; 1877-8, 919.]

Penalties for Violation.

Sec. 13. Any person practicing medicine or surgery in this state without complying with the provisions of this act shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or by imprisonment in the county jail for a period of not less than thirty days nor more than three hundred and sixty-five days, or by both such fine and imprisonment, for each and every offense. And any person filing, or attempting to file, as his own, the diploma or certificate of another, or a forged affidavit of identification, shall be guilty of a felony, and upon conviction shall be subject to such fine and imprisonment as are made and provided by the statutes of this state for the crime of forgery.

Sec. 14. This act shall take effect from and after its passage, but the penalties shall not be enforced till on and after the thirty-first day of December, eighteen hundred and seventy-six.

An act supplemental to and amendatory of an act entitled "An act to regulate the practice of medicine in the state of California," approved April 3, 1876.

[Became a law and took effect April 1, 1878; 1877-8, 918.]

The first six sections consist of the amendment to sections 1, 2, 4, 10, 11, and 12, of the act named in the title, and above given. The following are supplemental sections:

Misdemeanor.

Sec. 7. Any person practicing medicine or surgery in this state without first having procured a certificate to so practice from one of the boards of examiners appointed by one of the societies mentioned in section two of this act shall be deemed guilty of a misdemeanor, and shall be subject to the penalties provided in section thirteen of the act to which this act is amendatory and supplemental, but no person who holds a certificate from one of such boards of examiners, or who holds a certificate heretofore granted by the board of examiners heretofore existing by virtue of appointment by the California State Medical Society of Homeopathic Practitioners, shall be compelled to procure a new certificate. And all powers and privileges of said boards of examiners, under the act to which this act is supplemental and amendatory, are hereby transferred to the boards of examiners created by this act.

Misdemeanor.

Sec. 8. Any person assuming to act as a member of a board of examiners, under this act or under the act to which this act is supplemental and amendatory, or who shall sign, or subscribe, or issue, or cause to be issued, or seal, or caused to be sealed, a certificate authorizing any person to practice medicine or surgery in this state, except the person so acting and doing be appointed by

one of the societies mentioned in section two of this act, or be authorized so to do by a board of examiners appointed by one of said societies, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars, or by imprisonment in the county jail for a period of not less than thirty nor more than three hundred and sixty-five days, or by both such fine and imprisonment.

Certain certificates made null.

Sec. 9. Should either of the said boards issue a certificate to any person whose application for a certificate has been previously rejected by another of the said boards within one year after the rejection of said application, then in such case the certificate issued as aforesaid to said rejected applicant shall be null and void and of no effect.

Examination of applicants to practice medicine.

Sec. 10. If any person not a graduate or licentiate of medicine has been unable to present himself for examination to any of said boards, as provided in section one of this act, then and in such case it shall be lawful for either of said boards, on good cause shown why said person was unable so as to present himself for examination, to examine such person touching his qualifications to practice medicine or surgery, and if said examination shall be satisfactory to the board, it shall thereupon issue its certificate in accordance with the facts, and the lawful holder thereof shall be entitled to all the rights and privileges of graduates or licentiates to whom certificates have been issued under this act and the act to which this act is amendatory and supplementary, but no such examination shall be had after the expiration of sixty days from the time this act shall take effect.

Sec. 11. This act shall be in effect from and after its passage.

Pharmacy.—An act to regulate the practice of pharmacy in the city and county of San Francisco, approved March 28, 1872; 1871-2, 681; amended March 31, 1876; 1875-6, 583; was still further amended by act of March 30, 1878; 1877-8, 838. By Stats. 1883, 93, the act of February 3, 1876, amending the pharmacy act of 1872, was repealed.

An act to regulate medical practice to prevent blindness in infants.

[Stat. approved February 17, 1897; Stats. 1897, chap. xiv.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. Should one or both eyes of an infant become reddened or inflamed at any time within two weeks after birth, it shall be the duty of the midwife, nurse, or person having charge of said infant, to report the condition of the eyes at once to some legally qualified practitioner of medicine of the city, town, or district in which the parents of the infant reside.

Sec. 2. Any failure to comply with the provisions of this act shall be punishable by a fine not to exceed one hundred dollars, or imprisonment not to exceed six months, or both.

Sec. 3. This act shall take effect from and after its passage.

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## TITLE 178.

### MENDOCINO COUNTY.

A reference to the local acts relating to Mendocino county is contained in Deering's Annotated Code, p. 630, et seq.

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## TITLE 179.

### MERCED COUNTY.

A reference to local acts affecting Merced county is contained in Deering's Annotated Penal Code, p. 632.

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## MEXICAN WAR.

See Veterans' Home Association.



## TITLE 180.

## MILITARY ACADEMY.

An act to furnish arms for the use of military academies in the state. *Rn*

[Approved February 20, 1872; 1871-2, 121.] *P. ac*

Military academies—Majors. *27*

Section 1. That when a military academy has been established within the state, having not less than eighty boys, uniformed, drilled, and instructed in strict accordance with the tactics of the regular United States army service, and all its course of education and economy conducted upon strict military principles, the military instructor of such academy, when regularly elected by the board of trustees or other lawful authority of the academy, be commissioned in the national guard of California, with the rank of major.

Bond and issue of arms, etc.

Sec. 2. That upon giving bond, with good security, to be approved by the county judge of the county where the academy is situated, conditioned for the safe-keeping against fire, loss, and against all damages, in twice the value, that arms and accouterments, the property of the state, be issued for the use of such military academy.

Requisition.

Sec. 3. The adjutant general of the state is hereby authorized to issue such arms and accouterments as may be needed by the said military academies, without a monthly allowance, in the same manner as arms and accouterments are issued to regular organized companies of the national guard of California, upon requisition made for this purpose, approved by the commander-in-chief.

Sec. 4. This act shall take effect immediately.

Gen. Laws—49

## TITLE 181.

### MINERAL CABINET.

Consult the following acts:

An act to provide for the establishment of a cabinet department in the state library.

[Approved April 1, 1872; 1871-2, 824.]

An act making an appropriation for the management and protection of the state mineral cabinet under direction of the trustees thereof.

[Approved March 11, 1889; 1889, 131.]

An act to provide for the removal of the mineral cabinet from the state library.

[Approved March 9, 1887; 1887, 74.]

Act provided for appointment by governor of three trustees to select place in the Crocker art gallery for the mineral cabinet.

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## TITLE 182.

### MINERALOGIST, STATE.

Consult the following acts:

An act making an appropriation for editing the manuscript of the state mineralogist for the two years ending September 15, 1892.

[Approved March 11, 1893; Stats. 1893, p. 133.]

An act establishing a state mining bureau and providing for appointment of state mineralogist and repealing prior acts.

[Approved March 23, 1893; Stats. 1893, p. 203.]

The repealed acts are contained in the statutes of 1880, p. 115, and 1885, p. 217, respectively.

## TITLE 183.

## MINES AND MINING.

For other acts relating to mining, see Civil Code, Appendix, p. 802, et seq.

A very important act relating to mining partnerships is contained in the Statutes of 1865-6, p. 828. It has not been in terms repealed. As this subject is treated of in the Civil Code, section 2511, et seq., and as this act was included in the list of acts intended to be repealed by the code commissioners (Index to Laws of Cal., p. 711), it is probably not in force.

An act for the protection of miners.

[Approved March 13, 1872; 1871-2, 413.]

Protection of miners.

Section 1. It shall not be lawful for any corporation, association, owner, or owners of any quartz-mining claims within the state of California, where such corporation, association, owner, or owners employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface.

Modes of escape.

Sec. 2. It shall be the duty of each corporation, association, owner, or owners of any quartz mine or mines in this state, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working-shaft of such mine as a mode of escape from underground accident, or otherwise. And all corporations, associations, owner, or owners of mines as aforesaid,

working at a greater depth than three hundred feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

#### Liabilities.

Sec. 3. When any corporation, association, owner, or owners of any quartz mine in this state shall fail to provide for the proper egress as herein contemplated, and where any accident shall occur, or any miner working therein shall be hurt or injured, and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner or owners of the mine where the injuries shall have occurred shall be liable to the person injured in all damages that may accrue by reason thereof; and an action at law in a court of competent jurisdiction may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof, by reason of their failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages as provided by an act entitled an act requiring compensation for causing death by wrongful act, neglect, or default, approved April twenty-sixth, eighteen hundred and sixty-two.

Sec. 4. This act shall take effect and be in force six months from and after its passage.

An act for the protection of coal mines and coal miners.

[Approved March 27, 1874; 1873-4, 726.]

#### Map.

Section 1. The owner or agent of every coal mine shall make or cause to be made an accurate map or plan of the workings of such coal mine, on a scale of one hundred feet to the inch.

#### Copies.

Sec. 2. A true copy of which map or plan shall be kept at the office of the owner or owners of the

mine, open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines by the agent or other person having charge of the mines, open to the inspection of the workmen.

Shafts or outlets.

Sec. 3. The owner or agent of every coal mine shall provide at least two shafts, or slopes, or outlets, separated by natural strata of not less than one hundred and fifty feet in breadth, by which shafts, slopes, or outlets distinct means of ingress and egress are always available to the persons employed in the coal mine; provided, that if a new tunnel, slope, or shaft will be required for the additional opening, work upon the same shall commence immediately after the passage of this act, and continue until its final completion, with reasonable dispatch.

Ventilation.

Sec. 4. The owner or agent of every coal mine shall provide and establish for every such mine an adequate amount of ventilation, of not less than fifty-five cubic feet per second of pure air, or thirty-three hundred feet per minute, for every fifty men at work in such mine, and as much more as circumstances may require, which shall be circulated through to the face of each and every working place throughout the entire mine, to dilute and render harmless and expel therefrom the noxious, poisonous gases, to such an extent that the entire mine shall be in a fit state for men to work therein, and be free from danger to the health and lives of the men by reason of said noxious and poisonous gases, and all workings shall be kept clear of standing gas.

Inside overseer—Duties.

Sec. 5. To secure the ventilation of every coal mine, and provide for the health and safety of the men employed therein, otherwise and in every respect, the owner, or agent, as the case may be, in charge of every coal mine, shall employ a competent and practical inside overseer, who shall keep a careful watch over the ventilating apparatus, over the air ways, the traveling ways, the pumps and sumps, the timbering, to see as the miners advance in their excavations that all loose coal, slate, or rock overhead is carefully secured against fall-

ing; over the arrangements for signaling from the bottom to the top, and from the top to the bottom of the shaft or slope, and all things connected with and appertaining to the safety of the men at work in the mine. He, or his assistants, shall examine carefully the workings of all mines generating explosive gases, every morning before the miners enter, and shall ascertain that the mine is free from danger, and the workmen shall not enter the mine until such examination has been made and reported, and the cause of danger, if any, be removed.

Sec. 6. The overseer shall see that the hoisting machinery is kept constantly in repair and ready for use, to hoist the workmen in or out of the mine.

Owner.

Sec. 7. The word "owner" in this act shall apply to lessee as well.

Right of action.

Sec. 8. For any injury to person or property occasioned by any violation of this act, or any willful failure to comply with its provisions, a right of action shall accrue to the party injured for any direct damages he or she may have sustained thereby, before any court of competent jurisdiction.

Liability.

Sec. 9. For any willful failure or negligence on the part of the overseer of any coal mine, he shall be liable to conviction of misdemeanor, and punished according to law; provided, that if such willful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter.

Boilers.

Sec. 10. All boilers used for generating steam in and about coal mines shall be kept in good order, and the owner or agent thereof shall have them examined and inspected, by a competent boiler-maker, as often as once in three months.

Sec. 11. This act shall not apply to opening a new coal mine.

Sec. 12. This act shall take effect immediately.



An act to provide a state hospital and asylum for miners.

[Approved March 14, 1881; 1881, 81.]

Erection of state hospital for miners.

Section 1. There shall be erected, as soon as conveniently may be, upon some suitable site, to be determined and obtained as is hereinafter provided, a public hospital and asylum for the reception, care, medical, and surgical treatment, and relief of the sick, injured, disabled, and aged miners, which shall be known as the "California State Miners' Hospital and Asylum."

Trustees of, how appointed.

Sec. 2. The governor shall nominate, and by and with the advice and consent of the senate appoint five persons to serve as trustees of the said institution, who shall be a body politic and corporate by the name and style of the "Trustees of the California State Miners' Hospital Asylum," and shall manage and direct the concerns of the institution, and make all necessary by-laws and regulations, and shall have power to receive, hold, dispose of, and convey all real and personal property conveyed to them by gift, devise, or otherwise, for the use of said institution, and shall serve without compensation. Of those first appointed, two shall serve for two years, and three for four years; and at the expiration of the respective terms, each class thereafter shall be appointed for four years. A vacancy in said board, from any cause, shall be filled by appointment by the governor for the unexpired term.

Superintendent, how appointed.

Sec. 3. The said trustees shall have charge of the general interests of the institution; they shall appoint the superintendent, who shall be a skillful physician and surgeon, subject to removal or re-election no oftener than in periods of ten years, except by infidelity to the trust reposed in him, or for incompetency.

By-laws.

Sec. 4. The trustees, by and with the consent of the governor, shall make such by-laws and regulations for the government of the institution

as shall be necessary; they shall appoint a treasurer, who shall give bonds to the people of the state of California for the faithful discharge of his duties; and they shall fix the compensation of all officers, assistants, and attaches, who may be necessary for the just and economical administration of the affairs of said institution.

**Charges for medical attendance.**

Sec. 5. Indigent miners shall be charged for medical attendance, surgical operations, board, and nursing while residents in the hospital and asylum, no more than the actual cost; paying patients, whose friends can pay their expenses, and who are not chargeable upon townships and counties, shall pay according to the terms directed by the trustees.

**Powers of boards of supervisors.**

Sec. 6. The several boards of supervisors of counties, or any constituted authority in the state having care and charge of any indigent sick, or aged person or persons, if satisfactorily proven by them to have been miners, shall have authority to send to the California State Miners' Hospital and Asylum such persons, and they shall be severally chargeable with the expenses of the care, maintenance, and treatment, and removal to and from the hospital and asylum of such patients.

**Trustees to report.**

Sec. 7. The trustees shall annually, at such time as the governor may designate, report to him, for transmission to the legislature, such a statement as he may require as to the management of the said hospital and asylum.

Sec. 8. This act shall take effect immediately.

An act to establish a uniform system of mine bell signals, to be used in all mines operated in the state of California, and for the protection of miners.

[Approved March 8, 1893; Stats. 1893, p. 82.]

Section 1. Every person, company, corporation, or individual operating any mine within the state of California—gold, silver, copper, lead, coal, or

any other metal or substance where it is necessary to use signals by means of bell or otherwise for shafts, inclines, drifts, crosscuts, tunnels, and underground workings—shall, after the passage of this bill, adopt, use, and put in force the following system or code of mine bell signals, as follows:

- 1 bell, to hoist. (See Rule 2.)
- 1 bell, to stop if in motion.
- 2 bells to lower. (See Rule 2.)
- 3 bells, man to be hoisted; run slow. (See Rule 2.)
- 4 bells, start pump, if not running, or stop pump if running.
- 1—3 bells, start or stop air compressor.
- 5 bells, send down tools. (See Rule 4.)
- 6 bells, send down timbers. (See Rule 4.)
- 7 bells, accident; move bucket or cage by verbal orders only.
- 1—4 bells, foreman wanted.
- 2—1—1 bells, done hoisting until called.
- 2—1—2 bells, done hoisting for the day.
- 2—2—2 bells, change buckets from ore to water, or vice versa.
- 3—2—1 bells, ready to shoot in the shaft. (See Rule 3.)

Engineer's signal, that he is ready to hoist, is to raise the bucket or cage two feet and lower it again. (See Rule 3.)

Levels shall be designated and inserted in notice hereinafter mentioned. (See Rule 5.)

Sec. 2. For the purpose of enforcing and properly understanding the above code of signals, the following rules are hereby established:

Rule 1. In giving signals make strokes on bell at regular intervals. The bar (—) must take the same time as for one stroke of the bell, and no more. If timber, tools, the foreman, bucket, or cage, are wanted to stop at any level in the mine, signal by number or strokes on the bell, the number of the level first before giving the signal for timber, tools, etc. Time between signals to be double bars (— —). Examples:

6 — — 5, would mean stop at sixth level with tools.

4 — — 1—1—1— —1, would mean stop at fourth level, man on, hoist.

2— —1—4, would mean stop at second level with foreman.

Rule 2. No person must get off or on the bucket or cage while the same is in motion. When men are to be hoisted, give the signal for men. Men must then get on bucket or cage, then give the signal to hoist. Bell cord must be in reach of man on the bucket or cage at stations.

Rule 3. After signal "Ready to shoot in shaft," engineer must give his signal when he is ready to hoist. Miners must then give the signal of "Men to be hoisted," then "spit fuse," get into the bucket, and give the signal to hoist.

Rule 4. All timbers, tools, etc., "longer than the depth of the bucket," to be hoisted or lowered, must be securely lashed at the upper end of the cable. Miners must know they will ride up or down the shaft without catching on rocks or timbers, and be thrown out.

Rule 5. The foreman will see that one printed sheet of these signals and rules for each level and one for the engine-room are attached to a board not less than twelve inches wide by thirty-six inches long, and securely fasten the board up where signals can be easily read at the places above stated.

Rule 6. The above signals and rules must be obeyed. Any violation will be sufficient grounds for discharging the party or parties so doing. No person, company, corporation, or individuals operating any mine within the state of California shall be responsible for accidents that may happen to men disobeying the above rules and signals. Said notice and rules shall be signed by the person or superintendent having charge of the mine, who shall designate the name of the corporation or the owner of the mine.

Sec. 3. Any person or company failing to carry out any of the provisions of this act shall be responsible for all damages arising to or incurred by any person working in said mine during the time of such failure.

Sec. 4. This act shall take effect immediately.

? *Int. Pol. Code*  
An act to provide for the appointment, duties, and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner.

[Approved March 24, 1893; Stats. 1893, p. 339.]

Section 1. The governor of the state of California shall, on or before the first day of January, one thousand eight hundred and ninety-eight, appoint a competent civil engineer for a period of four years only, to be known as and called the debris commissioner; provided, however, that the debris commissioner heretofore appointed under the act entitled "An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March twenty-fourth, eighteen hundred and ninety-three, shall continue to perform the duties, and receive the compensation of that office, subject to the provisions of this act, until the expiration of the term for which he was appointed and until the appointment and qualification of the debris commissioner provided for by this act. [Amendment approved March 17, 1897; Stats. 1897, chap. cxiii. In effect immediately.]

Sec. 2. Said commissioner shall receive a compensation of ten dollars per day while actually engaged in the discharge of his duties, and his necessary traveling expenses, to be allowed by the state board of examiners. [Amendment approved March 17, 1897; Stats. 1897, chap. cxiii. In effect immediately.]

Sec. 3. It shall be the duty of the said debris commissioner to consult and advise with the members of the corps of engineers of the United States army comprising the California debris commissioner (created by act of congress approved March first, eighteen hundred and ninety-three), in relation to the construction of works for the restraining and impounding of debris resulting from mining operations, natural erosion, or other causes; and it

shall be his duty to examine such works, and to report the result of such examination to the state board of examiners. Said debris commissioner is further authorized and directed to consult and advise with said "California Debris Commission" in relation to any and all plans and specifications that may have been, or may hereafter be prepared or adopted by said "California Debris Commission," for the construction of such restraining or impounding works, and said debris commissioner shall submit a copy of all such plans and specifications to the state board of examiners for their examination and consideration, together with his approval or disapproval thereof, or other recommendation with reference thereto.

The state board of examiners shall thereupon proceed to examine and consider the plans and specifications thus submitted to them, and in that behalf may require the attendance, counsel, and advice of said debris commissioner, during their examination and consideration thereof. The state board of examiners shall keep a record of their deliberations and shall either approve or disapprove said plans and specifications, which approval or disapproval may be by a majority vote of said board; provided, that no plans and specifications involving an expenditure on the part of the state of California of a sum greater than the appropriation herein made shall be approved.

If said plans and specifications be approved by the state board of examiners, the said debris commissioner shall thereupon report such action to said "California Debris Commission."

Whenever said "California Debris Commission" or the government of the United States shall have entered into any contract for the construction of works for the purposes described in this act, in pursuance of plans and specifications that have been theretofore approved by the state board of examiners as in this act provided, it shall then be the duty of the debris commissioner to carefully inspect such works during the process of their construction and to keep a record of the result of such inspection and to report the same monthly to the state board of examiners. Said debris commissioner shall also from time to time, during the pro-



cess of the construction of such works, when requested so to do by the said "California Debris Commission," draw his warrants upon the state controller in favor of such person or persons as may be designated by said "California Debris Commission" for such amounts as shall equal one-half of the cost of the construction of said works; and said debris commissioner shall, in like manner, and when requested so to do by said "California Debris Commission," draw his warrant upon the state controller for an amount equal to one-half the purchase price of any site or sites necessary for the construction of said works; provided, that the purchase of such site or sites shall have been first approved by the state board of examiners; and provided further, that no warrant shall be drawn in excess of the amount appropriated by this act. [Amendment approved March 17, 1897: Stats. 1897, chap. cxiii. In effect immediately.]

Sec. 4. There is hereby appropriated out of the general fund of the treasury of this state no otherwise appropriated, the sum of two hundred and fifty thousand dollars, to be used in the construction of works for the restraining and impounding of debris resulting from mining operations, natural erosion, or other causes, and for the purchase of sites therefor. The appropriation made by this section is intended as a reappropriation of the sum of two hundred and fifty thousand dollars appropriated by the act entitled "An act to provide for the appointment, duties, and compensation of a debris commissioner, and to make an appropriation to be expended under his directions in the discharge of his duties as such commissioner," approved March twenty-fourth, eighteen hundred and ninety-three, and it is expressly intended and provided by this act that the state of California shall, in no event, incur any liability hereunder beyond the amount of the appropriation herein made; and no contractor, claimant, or person shall acquire any right or obligation against the state of California beyond said sum so appropriated and set apart for the purposes hereinabove set forth, and it is expressly declared that any claim or demand against the state of Califor

nia in excess of said appropriation shall be invalid and void. Said moneys shall be paid only upon orders drawn by the state controller upon the written request of said debris commissioner, as in this act provided. [Amendment approved March 17, 1897; Stats. 1897, chap. cxiii. In effect immediately.]

Sec. 5. The term of office of said debris commissioner shall be four years from the date of his appointment. He shall take the same oath of office as is provided by law for other state officers, and before entering upon the discharge of his duties shall give bond, with sufficient sureties, to be approved by the governor of the state, in the sum of fifty thousand dollars, for the faithful discharge of his duties as such officer.

Sec. 6. The said debris commissioner shall have the power to appoint a secretary, at a monthly salary to be fixed by said commissioner, not exceeding one hundred and twenty-five dollars per month, said secretary to hold office at the pleasure of the said commissioner; provided, however, that no secretary shall be appointed until said debris commissioner shall enter upon the actual discharge of his duties.

Sec. 7. All expenditures authorized by the provisions of this act shall be subject to the approval of the state board of examiners; and the state controller is hereby authorized to draw his warrant for all expenditures not in excess of the appropriation herein provided for so approved by the state board of examiners, and the state treasurer is hereby directed to pay the same. [Amendment approved March 17, 1897; Stats. 1897, chap. cxiii. In effect immediately.]

*Rev-Pub 343*

An act to repeal an act entitled "An act regulating the sale of mineral lands belonging to the state," approved March 28, 1874, and the acts amendatory thereof, and to provide for the sale of mineral lands under United States laws.

[Stat. approved April 1, 1897; Stats. 1897, chap. cclxx.]

The People of the State of California, represented in Senate and Assembly, do enact as follows.

Section 1. The following entitled acts of the legislature are hereby repealed, to wit:

First—An act entitled "An act regulating the sale of mineral lands belonging to the State," approved March twenty-eighth, eighteen hundred and seventy-four.

Second—An act entitled "An act to amend an act entitled an act regulating the sale of mineral lands belonging to the State, approved March twenty-eighth, eighteen hundred and seventy-four," approved February third, eighteen hundred and seventy-six.

Third—An act entitled "An act to amend an act entitled an act regulating the sale of mineral lands belonging to the state, approved March twenty-eighth, eighteen hundred and seventy-four," approved April sixth, eighteen hundred and eighty.

Sec. 2. When it shall be shown by affidavits or otherwise, to the satisfaction of the surveyor general, that any portion of a sixteenth or thirty-sixth section belonging to the state is valuable for its mineral deposits, the surveyor general shall not approve any application to purchase the same, nor shall the register of the state land office issue a certificate of purchase therefor, until the question of the character of the land has been referred for determination to a court of competent jurisdiction, in the manner provided by section thirty-four hundred and fourteen of the Political Code, and adjudged not to be valuable as mining land.

Sec. 3. The sixteenth and thirty-sixth sections belonging to the state, in which there may be

found valuable mineral deposits, are hereby declared to be free and open to exploration, occupation, and purchase of the United States, under the laws, rules, and regulations passed and prescribed by the United States for the sale of mineral lands.

Sec. 4. This act shall take effect from and after its passage.

An act prescribing the manner of locating mining claims upon the public domain of the United States, recording notices of location thereof, amending defective locations, and providing for the deposit of district records with county recorders, and prescribing the effect to be given to recordation of notices of location and affidavits.

[Stat. approved March 27, 1897; Stats. 1897, chap. clix.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. The location of mining claims upon the public domain of the United States shall be made and perfected as provided in this act.

Sec. 2. The discoverer of any vein or lode shall immediately, upon making a discovery, erect at the point of discovery a substantial monument or mound of rocks, and post thereon a preliminary notice which shall contain:

First—The name of the lode or claim;

Second—The name of the locator or locators;

Third—The date of the discovery;

Fourth—The number of linear feet claimed in length along the course of the vein each way from the point of discovery;

Fifth—The width claimed on each side of the center of the vein;

Sixth—The general course of the vein or lode, as near as may be;

Seventh—That such notice is a first or preliminary notice.

Such notice shall be recorded in the office of the county recorder of the county in which the same

is posted within twenty days after the posting thereof. Upon the erection of said monument and posting such notice, the discoverer shall be allowed the period of time specified in section three of this act to enable him to perfect his location as hereinafter provided.

Sec. 3. Within sixty days from the date of the discovery of a vein or lode, the discoverer must perform fifty dollars' worth of labor in developing his discovery, and distinctly mark his location on the ground so that its boundaries can be readily traced, and must file in the office of the county recorder of the county in which the claim is situated, a certificate of location, which said certificate shall state:

1. The name of the lode or claim;
2. The name of the locator or locators;
3. The date of discovery and posting of the notice, provided for in section two of this act, which shall be considered as the date of the location;

4. A description of the claim, defining the exterior boundaries as they are marked upon the ground, and such additional description by reference to some natural objects, or permanent monument, as will identify the claim.

5. A statement that such certificate is the final or completed notice of location, and that he has performed the aforesaid fifty dollars' worth of labor in development work thereon within the aforesaid sixty-day period, stating generally the nature thereof. Said certificate shall be dated and signed by or on behalf of the locator or locators, and verified by them or by some one in their behalf, and when filed for record shall be deemed and considered as prima facie evidence of the facts therein recited. A copy of such certificate of location certified by the county recorder, shall be admitted in evidence in all actions or proceedings with the same effect as the original. The performance of such labor shall be deemed a necessary act in completing such location and a part thereof, and no part thereof shall inure to the benefit of any subsequent location.

Sec. 4. The discoverer of placer or other forms of deposit, subject to location and appro-

priation, under mining laws applicable to placers, shall locate his claim in the following manner:

First—He must immediately post in a conspicuous place at the point of discovery thereon a notice or certificate of location thereof containing:

- (a) The name of the claim;
- (b) The name of the locator or locators;
- (c) The date of the discovery and posting of the notice, hereinbefore provided for, which shall be considered as the date of the location;
- (d) A description of the claim by reference to legal subdivisions of sections, if the location is made in conformity with the public surveys; otherwise, a description with reference to some natural object or permanent monument as will identify the claim, and where such claim is located by legal subdivisions of the public surveys, such location shall, notwithstanding that fact, be marked by the locator upon the ground, the same as other locations.

Second—Within thirty days from the date of such discovery he must record such notice or certificate of location in the office of the county recorder of the county in which such discovery is made, and so distinctly mark his location on the ground that its boundaries can be readily traced.

Third—Within sixty days from the date of the discovery the discoverer shall perform labor upon such location or claim in developing the [same] to an amount which shall be equivalent in the aggregate to at least ten dollars' (\$10) worth of such labor for each twenty acres, or fractional part thereof, contained in such location or claim.

A failure to perform such labor within said time, shall cause all rights under such location to be forfeited and the land covered thereby shall at once be open to location by qualified locators other than the preceding locators, but shall not in any event be open to location by such preceding locators, and any labor performed by them thereon shall not inure to the benefit of any subsequent locator thereof.

Fifth—Such locator shall, upon the performance of such labor, file with the recorder of the county an affidavit, showing such performance, and generally the nature and kind of work so done.



Sec. 5. The affidavit provided for in the last section, and the aforesaid placer notice or certificate of location when filed for record, shall be deemed and considered as prima facie evidence of the facts therein recited. A copy of such certificate, notice, or affidavit certified by the county recorder, shall be admitted in evidence in all actions or proceedings with the same effect as the original.

Sec. 6. All locations of quartz or placer formations or deposits, hereafter made, which do not conform to the requirements of this act, in so far as the same are respectively applicable thereto, shall be void.

Sec. 7. No record of a mining claim or mill-site, made after the passage of this act, in the records of any mining district, shall be valid. All notices of location of mining claims, millsites, and other notices, heretofore recorded in such district records, if such notices conform to the local rules and regulations in force in such district, are hereby declared valid. Within thirty days after the passage of this act the district recorder or custodian of the records of the several mining districts in this state, shall transmit to the county recorders of the respective counties wherein the respective districts are situated, all the records of said respective districts. and thenceforward such county recorder shall be deemed and considered the legal custodian of such records. Thereafter copies of such records, certified by the county recorder, may be received in evidence with the same effect as the originals.

Sec. 8. This act shall take effect and be in force sixty days after its passage.

An act entitled an act relating to the working, rights of way, easement, and drainage of mines in the state of California.

[Approved March 31, 1891; Stats. 1891, p. 219.]

Section 1. Whenever any mine-owner, company, or corporation shall have performed the labor and made the improvements required by law for the location and ownership of mining claims or lodes, such owner, company, or corporation shall

file or cause to be filed, within thirty days after the time limited for performing such labor or making such improvements, with the county recorder of deeds of the county in which the mine or claim is situated, particularly describing the labor performed and improvements made, and the value thereof, which affidavit shall be prima facie evidence of the facts therein stated. Upon the failure of any claimant or mine owner to comply with the conditions of this act in the performance of labor, or making of improvements upon any claim, mine, or mining ground, the claim or mine upon which such failure occurred shall be opened to relocation in the same manner as if no location of the same had ever been made. But if, previous to relocation, the original locators, their heirs, assigns, or legal representatives, resume work upon such claim, and continue the same with reasonable diligence until the required amount of labor has been performed or improvements made, and the required statement of accounts and affidavits filed with the county recorder, then the claim shall not be subject to relocation because of previous failure to file accounts. Upon the failure of any one of the several co-owners to contribute his portion of the expenditures required hereby, the co-owners who have performed the labor or made the improvement may, at the expiration of the year, give such delinquent co-owner personal notice, in writing, or by publication in the newspaper published nearest the claim for at least once a week for ninety days; and if, at the expiration of ninety days after such notice in writing or publication, such delinquent shall fail or refuse to contribute his portion of the expenditures required by this section, his interest in the claim shall become the property of his co-owners who made the required expenditures. A copy of such notice, together with an affidavit showing personal service or publication, as the case may be, of such notice, when filed or recorded with the recorder of deeds of the county in which such mining claim is situated, shall be evidence of the acquisition of title of such co-owners. Where a person or company has or may run a tunnel or cuts for the purpose and in good faith for the purpose of developing a lode, lodes, or claims owned by said person or company or corporation, the money so expended in running said

tunnel shall be taken and considered as expended on said lodes or claims; provided further, that said lode, claim, or claims shall be distinctly marked on the surface as provided by law.

Sec. 2. All mining locations and mining claims shall be subject to a reservation of the right of way through or over any mining claims, ditches, roads, canals, cuts, tunnels, and other easements for the purpose of working other mines; provided, that any damage occasioned thereby shall be assessed and paid for in the manner provided by law for land taken for public use under the right of eminent domain.

Sec. 3. This act shall take effect immediately.

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## TITLE 184.

### MISSING PERSONS.

An act authorizing the appointment of trustees for the estates of missing persons, and defining the duties of such trustees.

[Approved March 23, 1893; Stats. 1893, p. 218.]

Section 1. That whenever any resident of this state has been or may hereafter be missing, or his whereabouts unknown, for the period of ninety days, and any such person owns, is seised, or entitled to the seisin or the possession of any real or personal property in this state, and it is represented to the superior court, or a judge thereof, of any county in which such person owns any property, upon verified petition of the wife or of any relative or friend of such person, that his whereabouts has been unknown for such period of time and is still unknown, and that his estate requires the attention, supervision, and care of ownership, it shall be the duty of such court to appoint some suitable person or persons to take charge and possession of such estate as trustee, and to manage and control the same under the direction of said court.

Sec. 2. That in appointing such trustee the court shall preferably appoint the wife of such missing person (if any such there be), or her nominee, and in the absence of a wife, some person who would be entitled to participate in the dis-

tribution of such missing person's estate were he dead; and the court shall have power to direct such trustee to pay to the person or persons constituting the family of such missing person such sum or sums of money, for family expenses and support, from the income of such estate, as it may from time to time determine.

Sec. 3. That the bond of the trustee so appointed shall be in double the amount of the estimated annual income of such estate; provided, that where such missing person has a wife living and no children, and the estate of such missing person is shown to be solvent, and the wife applies to be appointed trustee, the court shall require no bond of her.

Sec. 4. It shall be the duty of such trustee or trustees to take possession of all the real and personal estate in this state of such missing person, and to collect and receive the rents, income and profits thereof; to collect all indebtedness owing to such missing person, and pay the costs and expenses thereof out of the trust fund, and to pay such indebtedness of such missing person as he may be authorized to do by the court making the appointment of the trustee; and he shall from time to time, as he may be directed, account to and with said court for all of his or their acts and doings as trustee, and the court making such appointment may at any time, upon the application of any party interested, and upon good cause shown therefor, remove any trustee which it may so appoint, and appoint some other person or persons trustee or trustees in his or their place or stead.

Sec. 5. Upon presentation of the verified petition mentioned in section one, the court or judge shall order the same to be filed with the clerk of the court, and shall appoint a time for the hearing of said petition, not less than ten days from the date of said order; and the clerk shall publish notice in some newspaper published in said county, stating that such petition will be heard at the time so appointed, in the court room of said court. Said notice shall be published for five days, and such other notice of said application shall be given in such manner and to such persons as the court or judge may direct. All orders, judgments, and decrees made in proceedings under this statute may be entered and recorded as and with the like

effect as other orders, judgments, and decrees in superior courts. From and after the presentation of said petition, and until decision rendered thereon, the wife of such missing person shall have all the powers of a trustee duly appointed and qualified under this act, and shall act as such trustee, subject to the direction of the court.

Sec. 6. This act shall be in force from and after its passage.

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## TITLE 185.

### MODOC COUNTY.

Consult the following acts:

An act to create the county of Modoc, to establish the boundaries thereof, and to provide for its organization.

[Approved February 17, 1874; 1873-4, 124.]

An act supplemental to the foregoing act of February seventeenth, eighteen hundred and seventy-four.

[Approved March 23, 1874; 1873-4, 517.]

This act made provision for the hospital fund of Modoc county; also defined the powers of the commissioners as to the registry of voters; also provided for the levy of a tax for a building fund; and extended the act of March 26, 1857, in relation to hogs found running at large in Colusa and other counties, over Modoc county.

A reference to special acts relating to Modoc county may be found in Deering's Annotated Penal Code, p. 639.

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## TITLE 186.

### MONO COUNTY.

A reference to local acts relating to Mono county is contained in Deering's Annotated Penal Code, pp. 639, 640.

## TITLE 187.

## MONTEREY.

An act to repeal an act entitled "An act to incorporate the city of Monterey," approved May 11, 1853, and acts amendatory thereof, approved March 4, 1857, April 18, 1862, and April 2, 1866. [Approved March 16, 1889; 1889, 227.]

See also an act to amend the act to reincorporate Salinas city, approved March 27, 1895, Stats. 1895, p. 206.

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## TITLE 188.

## MONTEREY COUNTY.

A reference to special acts relating to Monterey county is contained in Deering's Annotated Penal Code, pp. 640, 641.

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## TITLE 189.

## MORGUE.

An act to provide for the construction and maintenance of a public morgue in the city and county of San Francisco.

This act was approved March 5, 1885; Stats. 1885, p. 25.

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## TITLE 190.

## MORTGAGES.

Acts relating to attorney's fee on foreclosure: See Code of Civil Procedure, Appendix, title, Mortgages, p. 863 et seq.



## TITLE 191.

## MUNICIPAL CORPORATIONS.

## MUNICIPAL CORPORATION BILL.

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II. General provisions relating to officers, §§ 601-611.

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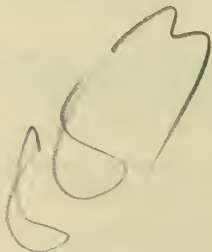
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An Act to provide for the organization, incorporation, and government of municipal corporations.

[Approved March 13, 1883.]

## CHAPTER I.

### Organization of Municipal Corporations.

Cty or town may incorporate.

Section 1. Any portion of a county containing not less than five hundred inhabitants, and not incorporated as a municipal corporation, may become incorporated under the provisions of this act, and when so incorporated, shall have the powers conferred, or that may be hereafter conferred, by law, upon municipal corporations of the class to which the same may belong.

Manner of proceeding in organizing a municipal corporation.

Sec. 2. A petition shall first be presented to the board of supervisors of such county, signed by at least fifty of the qualified electors of the county, residents within the limits of such proposed corporation, and the affidavit of three qualified electors residing within the proposed limits, filed with the petition, shall be prima facie evidence of the requisite number of signers. The petition shall set forth and particularly describe the proposed boundaries of such corporation, and state the number of inhabitants therein, as nearly as may be, and shall pray that the same may be incorporated under the provisions of this act. Such petition shall be presented at a regular meeting of such board, and shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper printed and published in such county, together with a notice stating the time of the meeting at which the same will be presented. When such petition is presented, the board of supervisors shall hear the same, and may adjourn such hearing from time to time, not

exceeding two months in all, and on the final hearing, shall make such changes in the proposed boundaries as they may find to be proper and shall establish and define such boundaries, and shall ascertain and determine how many inhabitants reside within such boundaries; provided, that any changes made by said board of supervisors shall not include any territory outside of the boundaries described in such petition. The boundaries so established by the board of supervisors shall be the boundaries of such municipal corporation until by action, authorized by law for the annexation of additional territory to, or the taking of territory from, said municipal corporation, such boundaries shall be changed; provided, whenever it shall appear to the board of supervisors that the boundaries of any municipal corporation have been incorrectly described, the board shall direct the county surveyor to ascertain and report a description of the boundaries. The board of supervisors shall, at their first regular meeting after the filing of the report of the county surveyor, cause notice to be published in some newspaper published in the county, that the report will be acted upon at the next regular meeting of the board, and at said meeting the board shall ratify the report of the county surveyor, with such modifications as they shall deem necessary, and the boundaries so established shall be the legal boundaries of said municipal corporation. They shall then give notice of an election to be held in such proposed corporation for the purpose of determining whether the same shall become incorporated. Such notice shall particularly describe the boundaries so established, and shall state the name of such proposed corporation, and the number of inhabitants so ascertained to reside therein, and the same shall be published for at least two weeks prior to such election, in a newspaper printed and published within such boundaries, or posted for the same period in at least four public places therein. Such notice shall require the voters to cast ballots, which shall contain the words "For incorporation," or "Against incorporation," or words equivalent thereto, and also the names of persons voted for to fill the various elective municipal offices prescribed by law for municipal corporations of the class to which

such proposed corporation will belong. [Amendment, approved March 19, 1889; Stats. 1889, p. 371. In effect immediately.]

Election, how conducted.

Sec. 3. Such elections shall be conducted in accordance with the general election laws of the state, and no person shall be entitled to vote thereat unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided within the limits of such proposed corporation for at least sixty days next preceding such election. The board of supervisors shall meet on the Monday next succeeding such election, and proceed to canvass the votes cast thereat; and if, upon such canvass, it appears that the majority of the votes cast are for the incorporation, the board shall, by an order entered upon their minutes, declare such territory duly incorporated as a municipal incorporation of the class to which the same shall belong, under the name and style of the city (or town, as the case may be) of --- (naming it), and shall declare the person receiving, respectively, the highest number of votes for such several offices to be duly elected to such offices. Said board shall cause a copy of such order, duly certified, to be filed in the office of Secretary of State, and from and after the date of such filing, such incorporation shall be deemed complete, and such officers shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices respectively only until the next general municipal election to be held in such city or town, and until their successors are elected and qualified; and it shall not be necessary in any action, civil or criminal to plead and prove the organization or existence of such corporation, and the courts shall take judicial cognizance thereof without proof. [Amendment approved March 19, 1889; Stats. 1889, p. 371. In effect immediately.]

How incorporated city or town may incorporate under this law.

Sec. 4. The common council, board of trustees, or other legislative body of any city and county, city, or town, organized or incorporated prior to the first day of January, eighteen hundred and

eighty, at twelve o'clock, meridian, shall, upon receiving a petition therefor, signed by not less than one fifth of the qualified electors of such city and county, city or town, as shown by the vote cast at the last municipal election held therein, submit to the electors of such city and county, city, or town, at the next general election to be held therein, the question whether such city and county, city, or town shall become organized under the general laws of the state relating to municipal corporations of the class to which such city and county, city, or town may belong. Notice that such question will be so submitted shall be given by publication in a newspaper printed and published in such city and county, city, or town; or if there be no newspaper printed and published therein, by printing and posting the same in at least four public places therein, including the place or places where such election is to be held. Such notice shall be so published or posted for at least four weeks prior to such election, and shall also be made a part of the general election notice. Such notice shall distinctly state the proposition to be so submitted, and shall designate the class to which such corporation belongs, and shall invite the electors thereof to vote upon such proposition by placing upon their ballots the words "For reorganization," or "Against reorganization," or words equivalent thereto. The votes so cast shall be canvassed at the time and in the manner in which the other votes cast at such election are canvassed. If, upon such canvass, a majority of all the electors voting at such election shall be found to have voted for such reorganization, the said council, board, or other legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the Secretary of State a certified abstract of such vote; which abstract shall show the whole number of electors voting at such election, the number of votes cast for reorganization, and the number of votes against reorganization. Said council, board, or other legislative body shall immediately thereafter call a special election for the election of the officers required by law to be elected in corporations of the class to which such city and county, city, or town shall belong, which election shall be



held within six weeks thereafter. Such election shall be held in all respects in the manner prescribed, or that may hereafter be prescribed, by law for municipal elections in corporations of such class, and shall be canvassed by the council, board, or other legislative body calling the same, who shall immediately declare the result thereof, and cause the same to be entered upon their journal. From and after the date of such entry, such corporation shall be deemed to be organized under such general laws, under the name and style of the city and county (or city or town as the case may be) of — (naming it), with the powers conferred, or that may hereafter be conferred, by law upon municipal corporations of the class to which the same may belong; and the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices, respectively, only until the next general municipal election to be held in such city and county, city, or town, and until their successors are elected and qualified.

#### Effect of reincorporation.

Sec. 5. Any city and county, city or town organized under the provisions of section four of this act shall, for all purposes, be deemed and taken to be in law the identical corporation theretofore incorporated and existing; and such reorganization shall in no wise affect or impair the title to any property owned or held by such corporation, or in trust therefor, or any debts, demands, liabilities, or obligations existing in favor of or against such corporation, or any proceeding then pending; nor shall the same operate to repeal or affect in any manner any ordinance theretofore passed or adopted and remaining unrepealed, or, to discharge any person from any liability, civil or criminal, then existing, for any violation of any such ordinance; but such ordinances, so far as the same are not in conflict with such general laws, shall be and remain in force until repealed or amended by competent authority; provided, that proceedings theretofore commenced shall, after such reorganization, be conducted in accordance with the provisions of such general laws.

#### Duty of outgoing officers.

Sec. 6. As soon as the officers elected under the

provisions of either section three or section four of this act shall have qualified in accordance with law, all persons, if any, then in possession of the offices of such corporation, shall immediately quit and surrender up the possession of such offices, and shall deliver to the officers so elected all moneys, books, papers, or other things in their official custody, and all property of such corporation in their hands, notwithstanding that the terms of office for which they were respectively elected or appointed may not then have expired; and all officers, boards, and persons holding any property in trust for any public use, the administration of which use is vested by such general laws in such corporation, or in any of its officers, shall, upon demand from such corporation or such officers, convey such property to such corporation or such officers, by good and sufficient deeds of conveyance, in trust for such public use.

Boundary, how changed.

Sec. 7. The boundaries of any municipal corporation may be altered, and new territory included therein, after proceedings had as required in this section. The council, board of trustees, or other legislative body of such corporation shall, upon receiving a petition therefor, signed by not less than one fifth of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation, and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such territory shall be annexed to such corporation and become a part thereof. Such question shall be submitted at a special election, to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed and published in such corporation, and also in a newspaper printed and published outside of such corporation, and in the county in which such territory so proposed to be annexed is situated, in both cases for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, and shall designate specifically the boundaries of the territory so proposed to be annexed; and the electors shall be invited thereby to vote upon such proposition, by placing upon their ballots the words "For

annexation," or "Against annexation," or words equivalent thereto. Such legislative body shall also designate the place or places at which the polls will be opened in such territory so proposed to be annexed, which place or places shall be that or those usually used for that purpose within such territory, if any such there be. Such legislative body shall also appoint and designate in such notice the names of the officers of election. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in such territory so proposed to be annexed shall be canvassed separately, and if it shall appear upon such canvass that a majority of all the votes cast in such territory and a majority of all the votes cast in such corporation shall be for annexation, such legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the Secretary of State a certified abstract of such vote; which abstract shall show the whole number of electors voting in such territory, the whole number of electors voting in such corporation, the number of votes cast in each for annexation, and the number of votes cast in each against annexation. From and after the date of the filing of such abstract, such annexation shall be deemed complete, and thereafter such territory shall be and remain a part of such corporation; provided, that no property within such territory so annexed shall ever be taxed to pay any portion of any indebtedness of such corporation, contracted prior to or existing at the date of such annexation. If the territory so proposed to be annexed consists, in whole or in part, of any municipal corporation, or part thereof, such territory shall not be annexed under the provisions of this section.

**Municipal corporations, how consolidated.**

Sec. 8. Two or more contiguous municipal corporations may become consolidated into one corporation after proceedings had as required in this section. The council, board of trustees, or other legislative body of either of such corporations shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors of each

of such corporations, as shown by the votes cast at the last municipal election held in each of such corporations, submit to the electors of each of such corporations the question whether such corporations shall become consolidated into one corporation. Such legislative body shall designate a day upon which a special election shall be held in each of such corporations to determine whether such consolidation shall be effected, and shall give written notice thereof to the council, board of trustees, or other legislative body of each of the other of such corporations, which notice shall designate the name of the proposed new corporation. It shall thereupon be the duty of such legislative body of each of the corporations so proposed to be consolidated to give notice of such election, by publication in a newspaper printed and published in such corporation, for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, the name of the corporations so proposed to be consolidated, the name of the proposed new corporation, and the class to which such proposed new corporation will belong; and shall invite the electors to vote upon such proposition by placing upon their ballots the words "For consolidation," or "Against consolidation," or words equivalent thereto. The legislative bodies of each of such corporations shall meet in joint convention at the usual place of meeting of the legislative body of that one of such corporations having the greatest population, as shown by the last federal census, on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in each of such corporations shall be canvassed separately; and if it shall appear upon such canvass that a majority of the votes cast in each of such corporations shall be for consolidation, such joint convention, by an order entered upon their minutes, shall cause the clerk, or other officer performing the duties of clerk, of the legislative body at whose place of meeting such joint convention is held, to make a certified abstract of such vote; which abstract shall show the whole number of electors voting at such election in each of such corporations, the number of votes cast in each for consolidation,

and the number of votes cast in each against consolidation. Such abstract shall be recorded upon the minutes of the legislative body of each of such corporations; and immediately upon the record thereof, it shall be the duty of the clerk, or other officer performing the duties of clerk, of each of such legislative bodies to transmit to the Secretary of State a certified copy of such abstract. Immediately after such filing, the legislative body of that one of such corporations having the greatest population, as shown by the last federal census, shall call a special election, to be held in such new corporation for the election of the officers required by law to be elected in corporations of the class to which such new corporation shall belong, which election shall be held within six months thereafter. Such election shall be called and conducted in all respects in the manner prescribed, or that may hereafter be prescribed, by law for municipal elections in corporations of such class, and shall be canvassed by the legislative body so calling the same, who shall immediately declare the result thereof, and cause the same to be entered upon their journal. From and after the date of such entry, such corporations shall be deemed to be consolidated into one corporation, under the name and style of the city and county (or city or town as the case may be) of — (naming it), with the powers conferred, or that may hereafter be conferred, by law upon municipal corporations of the class to which the same shall so belong; and the officers elected at such election shall be entitled immediately to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold such offices, respectively, only until the next general municipal election to be held in such city and county, city, or town, and until their successors are elected and qualified. All the provisions of sections five and six of this act shall apply to such corporation and to the officers thereof; provided, that no property within either of the former corporations so consolidated shall ever be taxed to pay any portion of any indebtedness of either of the other of such former corporations contracted prior to or existing at the date of such consolidation.

## CHAPTER II.

Municipal Corporations of the First Class.  
(Cities having a population of more than 100,000.)

## Article I.—General Powers.

## First Class.

Sec. 19. Every municipal corporation of the first class shall be entitled the city and county of —, or the city of — (naming it), as the case may be, and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

## Article II.—General Provisions Relating to Officers.

Names, numbers, and terms of officers.

Sec. 20. There shall be elected by the qualified voters of such city, or city and county, at the general state election to be held on the first Tuesday after the first Monday of the month of November in each even-numbered year, the following officers, viz: A mayor, sheriff, auditor, tax collector, treasurer, county clerk, recorder, district attorney, city or city and county attorney, coroner, surveyor, superintendent of streets, twelve school directors, six justices of the peace, public administrator, and two police judges, who shall hold office for two years. The terms of such officers shall commence on the first Monday after the first day of January next following their election. Also, twelve aldermen, in the manner, and who shall hold office, as provided in section forty-one of this chapter, and twelve assistant aldermen, who shall hold office as provided in section forty-three of this chapter.



What offices kept open.

Sec. 21. The mayor, sheriff, county clerk, county recorder, treasurer, district attorney, auditor, tax collector, assessor, city or city and county attorney, superintendent of streets, and surveyor shall keep public offices, which shall be kept open for the transaction of business every day in the year except Sundays, Christmas, New Year's, Fourth of July, Thanksgiving, the twenty-second of February, and on any days during which a general election shall be held, between the hours of nine o'clock A. M. and five o'clock P. M.

Manner of filling vacancies.

Sec. 22. Whenever vacancies occur in any of the elective offices of such city, or city and county, and provision is not otherwise made in this or some other act for filling the same, the mayor shall appoint, subject to the confirmation of the board of aldermen, a person to discharge the duties of such office until the next election, when the vacancy shall be filled by election for the unexpired term. All persons so appointed shall, before entering upon their duties, take the oath of office, and give bonds as required by law.

What fees paid out of treasury.

Sec. 23. No fees or compensation to be paid out of the treasury, other than those expressly allowed in this chapter, shall be allowed or received by any officer of such city, or city and county, or of any district, or other subdivision thereof; nor shall any allowance or provision be made for them, or any of them, at the public expense beyond the fixed compensation herein provided under the name of office rent, fuel, lights, stationery, contingencies, extra services, or otherwise, except the compensation or percentage allowed to the tax collector and to the assessor in the collection of poll-taxes, and except that the necessary and proper books, stationery, and official blanks may, at the discretion of the municipal council, be purchased and supplied for all the courts of such city, or city and county, its officers, municipal council, and other boards, and officers, the expense whereof, when the amount in each particular case shall have been previously authorized and fixed by the municipal council, may be

paid out of the general fund, upon demand upon the treasury duly audited, as in this chapter provided.

Bonds, how given.

Sec. 24. All officers of such city, or city and county, must, before they can enter upon their official duties, give a bond as required by law. The bonds and sureties of such officers must be approved by the president of the board of aldermen, auditor, and a judge of the superior court, in and for such city and county, or in and for the county in which such city may be situated. When the amount of such official bond is not fixed by law, it shall be fixed by the municipal council. No banker residing or doing business in such city, or city and county, nor any such banker's partner, clerk, employee, agent, attorney, father, or brother, shall be received as surety for the treasurer, mayor, sheriff, auditor, or any officer having the collection, custody, or disbursement of money. No person can be admitted as surety on any such bond unless he be worth, in fixed property, including mortgages, situated in such city, or city and county, the amount of his undertaking over and above all sums for which he is already liable, or in any manner bound, whether as principal, indorser, or security, or whether such prior obligation or liability be conditional or absolute, liquidated, or unliquidated, certain or contingent, due or to become due. All persons offered as sureties on official bonds must be examined on oath touching their qualifications. The official bond of the auditor shall be filed and kept in the office of the clerk of such city, or city and county. All other official bonds shall be filed and kept in the office of the auditor; provided that the bonds and sureties of the mayor must be approved by the chairman of the house of assistant aldermen, auditor, and a judge of the superior court in and for such city and county, or in and for the county in which such city may be situated; and that the bonds and sureties of the auditor must be approved by the president of the board of aldermen, the chairman of the house of assistant aldermen, and a judge of the superior court in and for such city and county, or in and for the county in which such city may be situated.

### Compensation.

Sec. 25. The compensation or salary of an officer provided for in this chapter shall not be increased or reduced after his election or during his term of office.

### Salaries.

Sec. 26. The salaries of the officers, clerks, deputies, or employees of such city and county, except as otherwise in this chapter provided, shall be as follows, and payable in monthly installments at the end of each and every month, viz:

#### Mayor and clerk.

1. The salary of the mayor shall be four thousand dollars per annum; he may appoint a clerk, to be known as the mayor's clerk, whose salary shall be one thousand eight hundred dollars per annum.

#### Sheriff, deputies, attorney, etc.

2. The salary of the sheriff shall be six thousand dollars per annum; he may appoint one undersheriff, whose salary shall be two thousand four hundred dollars per annum; one book-keeper, whose salary shall be two thousand four hundred dollars per annum, he may appoint twenty-five deputies, each of whom shall receive a salary of one thousand six hundred dollars per annum, one of which said deputies shall be assigned to and perform the duties of assistant book-keeper; sixteen deputies, whose salaries shall be one thousand five hundred dollars per annum; one counsel, who shall be an attorney of the supreme court of the state, whose salary shall be one thousand eight hundred dollars per annum; one matron, whose salary shall be nine hundred dollars per annum; one driver of prison wagon, whose salary shall be nine hundred dollars per annum.

#### Auditor and deputies.

3. The salary of the auditor shall be four thousand dollars per annum; he may appoint one deputy, whose salary shall be two thousand four hundred dollars per annum; and two clerks, at a salary of one thousand six hundred dollars per annum each.

#### Treasurer and deputies.

4. The salary of the treasurer shall be four thousand dollars per annum; he may appoint one chief

deputy, whose salary shall be two thousand four hundred dollars per annum, and one deputy, whose salary shall be two thousand one hundred dollars per annum.

Tax collector, deputies, etc.

5. The salary of the tax collector shall be four thousand dollars per annum; he may appoint one chief deputy, one cashier, each of whom shall receive a salary of two thousand dollars per annum, and ten permanent deputies, whose salary shall be one thousand six hundred dollars per annum each.

Assessor, deputies, etc.

6. The salary of the assessor shall be four thousand dollars per annum; he may appoint one chief office deputy, one chief field deputy, and one head draughtsman, each of whom shall receive a salary of two thousand dollars per annum; an assistant draughtsman, who shall receive a salary of one thousand eight hundred dollars per annum; and eleven office deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum. He may also appoint such additional deputies as may be allowed by the municipal council, at salaries not to exceed five dollars per day each, for such time as they may be employed.

Recorder, deputies, etc.

7. The salary of the recorder shall be three thousand dollars per annum; he may appoint one chief deputy, whose salary shall be two thousand four hundred dollars per annum, and two deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum; also, two porters, who shall perform the duties of watchmen, each of whom shall receive a salary of nine hundred dollars per annum.

County clerk, deputies, etc.

8. The salary of the county clerk shall be four thousand dollars per annum; he may appoint deputies as follows: one chief deputy, whose salary shall be two thousand four hundred dollars per annum; twelve courtroom clerks, twelve registry clerks, each of whom shall receive a salary of one

thousand eight hundred dollars per annum; twelve assistant registry clerks, each of whom shall receive a salary of one thousand five hundred dollars per annum; and twelve copyists, each of whom shall receive a salary of one thousand six hundred dollars per annum; and such county clerk, when the exigencies of his office shall require, may, in his discretion, employ such additional copyists as shall be necessary, at a compensation not to exceed three dollars per day for the days of actual service, provided, said number shall not exceed at any one time three copyists for each judge of the superior court, to be paid from the treasury in the same manner as the salaries herein provided for are to be paid.

District attorney, assistants, etc.

9. The salary of the district attorney shall be five thousand dollars per annum; he may appoint two assistants, who shall be attorneys of the supreme court of this state, each of whom shall receive a salary of two thousand four hundred dollars per annum, and two clerks, who shall be attorneys of the supreme court of the state, each of whom shall receive a salary of one thousand five hundred dollars per annum.

City and county attorney and assistants.

10. The salary of the city, or city and county, attorney shall be four thousand dollars per annum; he may appoint two assistants, who shall be attorneys of the supreme court of this state, each of whom shall receive a salary of two thousand four hundred dollars per annum; and one copyist, who shall receive a salary of nine hundred dollars per annum.

Coroner and deputies.

11. The salary of the coroner shall be three thousand dollars per annum; he may appoint two deputies, one to act as first deputy, whose salary shall be one thousand six hundred dollars per annum, the other to act as second deputy and whose salary shall be one thousand five hundred dollars per annum; and one messenger, to take charge of the dead-wagon, and perform such other duties as are required by the coroner or his deputies. The sal-

ary of the messenger shall be nine hundred dollars per annum.

Superintendent of streets and deputies.

12. The salary of superintendent of streets shall be four thousand dollars per annum; he may appoint twenty deputies; three of said deputies shall receive a salary of two hundred dollars per month each, and seven of said deputies shall receive a salary of one hundred and fifty dollars per month each, and ten of said deputies shall receive a salary of one hundred and twenty-five dollars per month each.

Surveyor.

13. The salary of the city, or city and county, surveyor, shall be four thousand dollars per annum; he may appoint as many deputies, not to exceed four, as the municipal council shall from time to time determine are necessary, who shall receive such compensation as such municipal council shall provide, not to exceed the sum of five dollars per day when actually employed.

Superintendent of schools.

14. The salary of the superintendent of schools shall be three thousand dollars per annum.

Police judge.

15. The salary of each of the police judges shall be four thousand dollars per annum.

Prosecuting attorney.

16. The salary of the prosecuting attorney of the police court shall be twenty-four hundred dollars per annum; and his two assistants shall each receive a salary of one thousand five hundred dollars per annum.

Justices of the peace.

17. The salary of the presiding justice of the justices' court shall be three thousand dollars per annum; and each of the other justices of the peace shall receive a salary of two thousand four hundred dollars per annum.

Clerk of the justices' court.

18. The salary of the clerk of the justices' court shall be two thousand four hundred dollars per annum; his two deputies shall receive a salary of one thousand two hundred dollars per annum.



**Collector of licenses.**

19. The salary of the collector of licenses shall be three thousand dollars per annum. He may appoint one chief deputy, who shall receive one thousand eight hundred dollars per annum, and twelve deputies, who shall receive a salary of one thousand five hundred dollars per annum each.

Officers not to be interested in contracts, etc.

Sec. 27. Any officer or commissioner of such city, or city and county, or any officer or member of any house, board, or department of the government thereof, who shall be directly or indirectly interested in, or a beneficiary or participant of, the profits of any contract made with or for such city, or city and county, or any board or department thereof, or who shall participate in the profits made by any person or persons upon services, labor, purchases, sales, subsistence, supplies, materials, or any article or thing furnished to or done for such city, or city and county, or any institution, public work, or branch, or department of the government thereof, or sold by the same, which contract, profit, purchase, sale, or supply is made, or could have been made, influenced, or brought about, through or by means of the official action or conduct of such officer, commissioner, or member of such board, except the official salary or compensation of such officer, commissioner, or member of such board or department provided expressly by law, shall be deemed guilty of a felony, and, on conviction by any court of competent jurisdiction, punished accordingly. Any commissioner, officer, clerk, or other person having custody of or access to any bids or proposals, whether sealed or otherwise, for supplying or furnishing any goods, provisions, subsistence, labor, material, printing, or other thing of any nature, or constructing, cleaning, or repairing any work or thing, or doing or furnishing anything whatsoever to such city and county, or any department, board, commissioner, or officer thereof, who shall open or examine into any one or more of such bids, proposals, or change, interline, alter, or otherwise tamper with the same, or shall purposely find out the contents thereof, or who shall aid, abet, assist, or permit

another so to do, before or in advance of the time prescribed by law for the opening thereof, or any lawful postponement of such time, shall be deemed guilty of a felony, and, on conviction by any court of competent jurisdiction, shall be punished accordingly.

Questions of difference, how settled.

Sec. 28. All questions of differences between the officers of such city, or city and county, as to their relative duties, may be referred by either of them to the city, or city and county, attorney, who shall examine and determine such questions, and his decision shall be final as between such officers.

Reports of officers.

Sec. 29. The following officers, and the heads of the following departments of such city, or city and county, shall report to the municipal council on or before the first day of August of each year the condition of their respective departments during the fiscal year ending June thirtieth previous thereto, embracing all their operations and expenditures: Auditor, assessor, tax collector, county clerk, superintendent of streets, fire department, hospital, alms-house, park commissioners, treasurer, sheriff, county recorder, city, or city and county surveyor, license collector, public schools, fire-alarm and police telegraph, pound-keeper, board of health, city or city and county attorney, industrial school, police, coroner, health-officer, justices' court, city-hall commissioners, home for the care of the inebriate, board of election directors, commissioner of elections, house of correction, city cemetery, free public library, and the building committee of the municipal council. Immediately after the first Monday in February, the mayor and municipal council shall make up and publish an extract from these several reports and other sources, of the operations, expenditures, and condition of all departments of government of such city, or city and county.

## Article III.—Legislative Department.

Legislative power, how vested.

Sec. 40. The legislative power of such city, or city and county, shall be vested in a body to be styled the "municipal council," which shall be composed of two boards or houses of legislation, one to be called the "board of aldermen," and the other the "house of assistant aldermen."

Board of aldermen, how elected.

Sec. 41. The board of aldermen shall consist of twelve persons, to be elected by general ticket, from the city, or city and county, at large, the members of which shall hold office for the term of four years, to commence on the first Monday after the first day of January next following their election, except that of the aldermen, who are elected at the first election under this chapter; the six receiving the smallest number of votes shall hold their office for two years only; so that thereafter only six shall be elected every two years. In case of a tie vote at such first election, the question of which aldermen shall hold the full and which the short term shall be determined between the candidates so tied by lot. The aldermen shall receive each a salary of one thousand two hundred dollars a year, payable in monthly installments, out of the general fund.

Secretary.

Sec. 42. The board of aldermen shall appoint a secretary, with a salary not to exceed two hundred dollars a month, who shall keep the records of said board. He shall hold office during the pleasure of the board. He shall have power to administer oaths and affirmations in all cases, and to certify and authenticate copies of all records, papers, and documents in his official custody, and shall perform any other services required by the board.

Assistant aldermen.

Sec. 43. The house of assistant aldermen shall consist of twelve persons, to be elected every two

years, one each by the qualified electors of the respective wards, into twelve of which such city, or city and county, shall be divided for such purpose. The assistant aldermen shall hold office for the term of two years, to commence on the first Monday after the first day of January next following their election, and shall receive each a salary of one thousand two hundred dollars a year, payable monthly out of the general fund.

Salary of clerk.

Sec. 44. The house of assistant aldermen may appoint a clerk, who shall keep their records, and hold office during their pleasure. He shall have a salary not to exceed two hundred dollars a month; shall have power to administer oaths and affirmations, and to certify and authenticate all records, documents, and papers in his official custody. He shall perform any other service required of him by the house.

Vacancy, how filled.

Sec. 45. Any vacancy occurring in either board shall be filled by the mayor; and the person appointed to fill such vacancy shall hold office till the next election by the people, and until his successor is qualified.

Qualification.

Sec. 46. Every member of the board of aldermen shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States and of this state, and a resident of such city, or city and county, for three years next before his election or appointment.

Qualification.

Sec. 47. Every member of the house of assistant aldermen shall be a qualified voter, at least twenty-five years of age, shall have been a citizen of the United States and of this state, and a resident of such city, or city and county, at least two years, and of the ward from which he is elected or appointed at least one year next before his election or appointment.

Qualification.

Sec. 48. Every member of either branch of the municipal council shall, at all times during his incumbency of said office, possess the following

qualifications: He shall not be, directly or indirectly, interested in any contract with such city, or city and county, or any department or institution thereof. He shall not have been convicted of malfeasance in office, bribery, or other corrupt practices or crimes. Any member who fails to possess, or who shall at any time during his term of office cease to possess, any of the qualifications mentioned in this act as a qualification shall thereby forfeit his seat in the board or house to which he belongs, and the vacancy shall be filled as in other cases. If any member of either branch absent himself from the state, or neglect to attend the meeting of the board or house to which he belongs, for a period of thirty days, his office shall be declared vacant by said board, and a successor must be appointed, to hold till the next election by the people, as provided in other cases.

#### Rules of houses of aldermen.

Sec. 49. Each board or house shall elect its own officers, except as to the presiding officer of the board of aldermen. The mayor shall preside at all the sessions of the board of aldermen, without the right to vote. In his absence, during any session, the board shall appoint one of its members as president pro tempore, who shall, however, have the same right to vote as other members. Each house shall be the judge of the election returns and qualifications of its own members, and may determine the rules of its own proceedings, except as herein provided. Each house shall keep a record of its acts, and allow the same to be published, and the yeas and nays on any question shall, at the request of any member, be entered on the journal of the house; may arrest and punish by fine, not exceeding five hundred dollars, or imprisonment as provided by ordinance, not exceeding thirty days, or both, any person not a member who shall be guilty of disrespect to the board or house by disorderly or contemptuous behavior in its presence during its session; may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members elect, may expel a member.

**Quorum.**

Sec. 50. The house of assistant aldermen shall elect one of their own number presiding officer of said house, who shall be designated as the "chairman" thereof. A majority of the members of either house shall constitute a quorum to do business; and no regulation, resolution, ordinance, or order of either house can pass without the concurrence of a majority of all the members elected or appointed to such house; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as the house or board may provide.

Sessions shall be public.

Sec. 51. All sessions, acts, and resolutions of each house shall be public. Neither house shall, without the consent of the other, adjourn for more than seven days at any one time, nor to any other place than that in which the two houses may be sitting.

Not eligible to any other office.

Sec. 52. No member of the municipal council shall, during the time for which he is elected, be eligible or appointed to any other office under the city, or city and county, except such offices as may be filled by election by the people; nor shall any member, while such, be an employee of such city, or city and county, or any board or department thereof, or of either branch of the municipal council, in any capacity whatever; and no compensation shall be audited or paid for services as such officer or employee; and no act, ordinance, or resolutions shall ever be passed whereby any member of either house shall become the disbursing officer of such city, or city and county, or any board or department thereof, or pay out any of its money upon any pretense whatever.

Limitations on contracts.

Sec. 53. No member of the municipal council, or of the board of education, or any officer of such city, or city and county, or of any ward thereof, shall have any power to contract any debt or liability whatsoever against such city, or city and county, nor shall the people, or tax-payers, or any



property therein, ever be liable to be assessed for or on account of any debt or liability hereafter contracted, or attempted to be contracted, in contravention of this chapter.

#### Finance committee.

Sec. 54. The municipal council shall appoint a joint committee of five, three from the board of aldermen, and two from the house of assistant aldermen, to be denominated the "finance committee," which committee may at any time, and shall whenever required by the municipal council, or either branch thereof, investigate the transactions and accounts of any and all officers appertaining to the government of such city, or city and county, having the collection, custody, or disbursement of public money, or having the power to approve, allow, or audit demands on the treasurer, and report thereon to the municipal council. Said committee shall have full power to send for all persons and papers, and enter into, examine, inquire, and investigate all offices and places, to administer oaths and affirmations, to examine witnesses, and compel their attendance by subpoena and attachment for contempt, and the production of records, books, and papers, and may imprison in the city or county jail any person refusing to appear or testify, as well as any officer or person failing or refusing obedience to the orders to show records, papers, or books, or to testify when required so to do. The sheriff or any policeman of such city, or city and county, shall enforce all orders of said committee, and attend upon it in like manner as upon courts of record. The mayor may be present and participate in such investigations.

When municipal council shall meet.

Sec. 55. The municipal council shall meet on the first Monday after the first day of January, and on the first Mondays of April, July, and October of each year, and at such other times as required by law, and may be specially convoked by the mayor as herein provided.

#### Passage of ordinances.

Sec. 56. No ordinance shall be passed except by bill, and no bill shall be so amended in its passage as to change its original object. No bill shall

contain more than one subject, which shall be expressed by its title. On the final passage of all bills the vote shall be by "yeas" and "nays" upon each bill, separately, and the names of the members voting for and against the same shall be entered on the journal. Bills may originate in either house, and no bill shall be passed by either house except by a majority vote of all the members elected or appointed to either house.

Amendments, how concurred in.

Sec. 57. No amendments to bills by either house shall be concurred in by the other except by a vote of a majority of all the members elected or appointed thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the journal thereof; and reports of committees of conference shall be adopted by either house only by the vote of a majority of all the members elected thereto, taken by "yeas" and "nays," and the names of those voting recorded upon the journals.

Re-enacting ordinances.

Sec. 58. No ordinance shall be revived, re-enacted, or amended, by mere reference to its title, but such ordinance or section shall set forth at length, as if it revived, re-enacted, or amended.

Reconsideration.

Sec. 59. When a bill is put upon its final passage in either house, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be taken up, and the subject finally disposed of at the next meeting of the council, unless such house, by a two-thirds vote, decides to act upon such reconsideration at the same meeting.

Signing bills.

Sec. 60. No bill shall become an ordinance until the same shall have been signed by the presiding officer of each of the two houses in open session, in authentication of its adoption by such house. In signing such bill for authentication, the presiding officer shall call the attention of the house to the bill, and that he is about to sign it, and if any member request, the bill shall be read at length for information as to its correctness as en-

rolled. If any member object that the bill is not the same in substance and form as when considered and passed by the house, such objection shall be passed upon, and if sustained, the presiding officer shall withhold his signature, and the bill shall then be corrected, and finally disposed of, and signed, before the house proceeds to any other business.

#### Appropriation bills.

Sec. 61. No general appropriation act or authorization shall ever be passed, but all appropriations shall be for the specific amount of the claim to be paid, and no more; and each ordinance or resolution authorizing the payment of money shall contain one claim only, which shall be expressed in the title. Every ordinance or resolution of the municipal council providing for any specific improvement, the granting of any privilege, or involving the lease or appropriation of public property, or the expenditures of public moneys, except for sums less than five hundred dollars, or levying tax or assessment, and every ordinance or resolution imposing a new duty or penalty, shall, after its introduction in either house, be published, with the "yeas" and "nays," in a newspaper doing the city and county printing, at least five successive days before final action upon the same by the house in which it was introduced; and in case such ordinance or resolution shall be amended before final passage in said house, then the bill as amended, shall be so published, in the same manner, before final action by such house thereon; and every such ordinance, after the same shall have passed both houses, shall, before it takes effect, be presented to the mayor for his approval. If he approves, he shall sign it; if not, he shall return it within ten days to the house in which the same originated, with his objections in writing. Said house shall then enter the objections on the journal, and publish them in the newspaper doing the city printing. At the next stated meeting thereafter, said house shall proceed to reconsider such bill. If, after such reconsideration, it again passes both houses by the votes of nine of the members elected or appointed to each house voting therefor, it shall become a law, notwithstanding the may-

or's objections. Should any such ordinance or resolution not be returned by the mayor within ten days after he receives it, it shall become valid, the same as if it had received his signature. Where a claim against the treasury amounts to more than five hundred dollars, it shall not be lawful to divide or break up the same into several sums of less than that amount so as to evade the provisions of this section concerning claims; and any effort or attempt to accomplish such unlawful division, or breaking up a claim, shall be deemed, as to every member of the municipal council or other officer consenting thereto, or aiding the same, a misdemeanor in office, and be cause for his removal. All ordinances authorizing the payment of any money out of the treasury, or any claim thereon, shall be referred to the appropriate standing committee of the house where the bill is introduced, who shall present the same to the auditor, in order that he may certify that there is sufficient money in the proper fund out of which such claim can lawfully be paid, and that such appropriation can be made without violating the provisions of this chapter; and until the auditor certifies in writing, signed by his name, that there is sufficient money in the proper fund, and that the authorization can be made without violating the provisions of this chapter, no further proceedings shall be had with such bill. It shall be the duty of the auditor, with reasonable promptness, to ascertain the facts, and to give the certificate when the facts warrant him in doing so, and not otherwise.

#### Powers.

Sec. 62. The powers of the municipal council, and all other boards, commissioners, and officers, are those specially named in this chapter, and they are prohibited from exercising any other.

#### Enacting clause.

Sec. 63. The enacting clause of ordinances shall be in the following terms: "The municipal council of the city and county of —, or city of — (as the case may be), hereby ordains as follows."

#### Further powers.

Sec. 64. The municipal council shall further have power by regulation or ordinance:

### Selling and leasing property.

1. To provide for the security, custody, and administration of all property of such city, or city and county, and to purchase land required for municipal purposes without any power to sell or incumber the same, or lease any part thereof for more than three years; except, however, that such personal property belonging to the fire, street, or other departments, as they deem unsuited to the uses and purposes for which the same was designed, or so much worn and dilapidated as not to be worth repairing, may be sold or exchanged.

### Opening streets.

2. To provide for cases omitted in this chapter, and in conformity with the principles adopted in it, for opening, altering, extending, constructing, repairing, or otherwise improving public streets and highways at the expense of the property benefited thereby, without any recourse in any event upon such city, or city and county, or the public treasury, for any portion of the expense of such work, or any delinquency of the property holders or owners.

### Lighting streets.

3. To provide for lighting the streets. But no contract for lighting streets or public buildings shall ever be made for more than one year in duration; nor shall any contract to pay more for gas or other illuminating material than is legally charged to ordinary consumers, or than the usual market rates, be valid.

### To provide water.

4. To provide water for all municipal purposes, and to pay for the same where lawful and necessary. In case water is supplied to such city, or city and county, for municipal purposes, any person, corporation, or association holding a valid franchise under the laws of this state to collect water rates for the use of water, then such city, or city and county, when it is lawful and necessary, shall pay the lawful rates, and no more, as established each year for water supplied for other than municipal purposes; and it shall not be lawful to make any special contract with such person, corporation, or association for water so as to vary from the rates fixed by law.

To regulate markets.

5. To regulate market-houses and market-places.

Regulating public grounds.

6. To provide for inclosing, improving, and regulating all public grounds of such city, or city and county.

Establish fire limits, etc.

7. To prohibit the erection of wooden buildings or structures within any fixed limits where the streets have been established and graded, or ordered to be graded, or to restrict and limit the height of such buildings or structures; to regulate the sale, storage, and use of gunpowder, and to restrict the limits within which may be manufactured or kept giant-powder, dynamite, nitro-glycerine, or other explosive or combustible materials and substances, and the maintenance of acid-works; and make all useful regulations in relation to the manufacture, storage, and transportation of all such substances, and the maintenance of acid-works, slaughter-houses, brick-burning, tanneries, and all other manufactures and works of every description that may jeopardize the public safety, and to exclude them from the city, or city and county, when necessary, or to restrict them, or any of them, to a district. To make all necessary regulations for protection against fire, as well as such rules and regulations concerning the erection and use of buildings as may be necessary for the safety of the inhabitants.

To permit laying down railroad tracks.

8. To permit the laying down of railroad tracks and the running of cars thereon along any street, or portion of street, for the sole purpose of excavating and filling in a street, or a portion of a street, or adjoining lots, and for such limited time as may be necessary for the purpose aforesaid,

Fix penalties.

and no longer.

9. To determine the fines, forfeitures, and penalties that shall be incurred for the breach of regulations established by the said municipal council, and also for a violation of the provisions of this chapter, where no penalty is affixed there-



to or provided by law; but no penalty to be imposed shall exceed the amount of one thousand dollars, or six months' imprisonment, or both. And every violation of any lawful order or regulation, or ordinances of the municipal council, is hereby declared a misdemeanor or public offense, and all prosecutions for the same shall be in the name of the people of the state of California.

**Employment of prisoners.**

10. To regulate and provide for the employment of prisoners sentenced to labor on the public works of such city, or city and county, and to maintain and regulate city, or city and county, jails and prisons, with manufacturing or other laboring establishments, or appliances connected therewith.

**To provide certain offices.**

11. To provide a suitable office and jury-room, and dead-house or morgue, with the furniture necessary to enable the coroner to efficiently discharge the duties of his office, and to make the necessary appropriation therefor; and to audit and pay for the necessary expenses of maintaining the morgue and offices attached, such sum as may be necessary, not to exceed seventy-five dollars per month, out of the general fund.

**Regulate home of inebriate.**

12. To maintain and regulate a home of the inebriate, in its discretion.

**City prison.**

13. To provide and maintain a city prison.

**Improve cemeteries.**

14. To maintain and improve the city cemeteries, and to pay out of the general fund a keeper thereof, to be appointed by the board of health, at a salary not to exceed one hundred dollars a month.

**Grant licenses.**

15. To license and regulate hackney-carriages and other public passenger vehicles, and to fix the rates to be charged for the transportation of persons, baggage, goods, merchandise, and property, or either, thereon; and to license and regulate all vehicles used for the conveyance of merchandise, earth, and ballast, or either; and also to

license and regulate persons and parties employed in conveying baggage, property, and merchandise, or either, to or from any of the wharves, slips, bulkheads, or railroad stations within the limits of such city, or city and county; to fix and establish the amount of every license paid into the city, or city and county, treasury for city, or city and county, purposes; to provide for the summary removal and disposition of any or all vehicles found in the streets, highways, and public squares during certain hours of the day or night, to be designated by the council; and, in addition to all other remedies, to provide by regulation for the sale or other disposition of such vehicles; to protect the public from injury by runaways, by punishing persons who negligently leave horses or carriages in the street; to prescribe the width of the tires of all drays, trucks, and carts, in accordance with the weight to be carried thereby, for the preservation of the streets and highways.

Grant licenses.

16. To regulate, license, and control the business of keeping intelligence offices, prescribe the method of conducting said business, and to enforce, by fines and penalties, the payment of the license, and any violation of the regulation touching said business. To license and regulate pawnbrokers, and to enact regulations to protect the public in dealing with them.

Fix fees.

17. To fix the fees and charges to be collected by the surveyor of such city, or city and county, for certificates of surveys for buildings or other purposes, and to provide for a sufficient corps of deputy surveyors to perform such work, to be paid from such fees only; also, to regulate the fees to be charged by the superintendent of streets, the county recorder, and any and all other municipal officers where their fees are not otherwise fixed by law, and compel the payment of all such fees and charges into the city and county treasury into the proper fund, in accordance with the provisions of this act.

Enforce collection of certain moneys.

18. To license and regulate, for the purposes of city, or city and county, revenue, all such callings, trades, and employments as the public good may require to be licensed and regulated, and as are not prohibited by law; to provide for and enforce, with penalties or otherwise, the collection and due payment into the city, or city and county, treasury of all moneys so due or raised, and to make all needful rules and regulations to govern the official conduct and duties of the collector of licenses.

Construction of hydrants.

19. To provide and pay for the construction and repair of hydrants, fire plugs, cisterns, and pumps in the streets.

Pay for celebrating.

20. To allow and order paid out of the general fund a sum not to exceed three thousand dollars in any year, for the celebration in such city, or city and county, of the anniversary of our national independence.

Election expenses.

21. To allow and order paid out of the general fund for the election expenses of such city, or city and county, not to exceed forty dollars for each election precinct for each election in said city, or city and county.

Prosecute claims.

22. To provide ways and means for the prosecution of the claims of such city, or city and county, to any land or other property or right claimed by such municipality.

Appoint weigher of coal.

23. To provide for the appointment by the mayor for a weigher of coal, without salary, and to regulate and define his duties, and establish rates of charges to be collected from persons requiring his services, and for his compensation from such rates and charges alone, and with no claim upon such city, or city and county.

Abatement of nuisances.

24. To authorize and direct the summary abatement of nuisances; to make all regulations which may be necessary or expedient for the preserva-

tion of the public health and the prevention of contagious diseases; to provide fines and penalties against individuals who may be guilty of maintaining any nuisances, and enforcing the same until such nuisance be removed or abated; to provide by regulation for the prevention and summary removal of all nuisances and obstructions in the streets, alleys, highways, and public grounds of such city, or city and county, and to prevent or regulate the running at large of dogs, and to authorize the destruction of the same when at large contrary to ordinance.

Regulate or prohibit houses of ill-fame.

25. To prohibit, suppress, regulate, or exclude from certain limits all houses of ill-fame, prostitution, and gaming; to prohibit, suppress, regulate, or exclude from certain limits all occupations, houses, places, pastimes, amusements, exhibitions, and practices which are against good morals, contrary to public order and decency, or dangerous to the public safety.

Regulate manner of street work.

26. To require, by ordinance, all contractors for street work, or other persons lawfully undertaking to improve, grade, or alter streets or public highways, to erect fences or barriers, to keep lights at night, and to take other necessary precautions to protect the public from damage, loss, or accident by reason of such grading, alteration, or improvement, and to fix and prescribe penalties for the violation of the provisions of such ordinance.

Safe-keeping of lost property.

27. To provide for the safe-keeping and disposition of lost, stolen, or unclaimed property of every kind, which may at any time be in the possession or under the control of the police of such city, or city and county.

Suppress public demonstrations.

28. To regulate, and when necessary to suppress, all public demonstrations and processions which interfere with public traffic.

Regulation of fire department.

29. To appoint a fire marshal. Such appointment shall be made on the nomination of the

board of fire underwriters of such city, or city and county, if such board shall exist therein. If more than one board shall exist therein, then upon the nomination of the board which shall have been longest organized. His salary shall be fixed and paid by such board of fire underwriters. Such fire marshal shall, before entering upon the office, take and subscribe the oath of office, and execute a bond to the state of California in the sum of five thousand dollars, with two or more sureties, to be approved by a judge of the superior court, for the faithful discharge of his duties. Any person aggrieved by any misconduct of such marshal, or his deputy, may bring an action in his own name upon such official bond, which bond shall be filed in the office of the county clerk. It shall be the duty of such fire marshal to attend all fires which may occur in such city, or city and county, with a badge of office conspicuously displayed. He shall take charge of and protect all property which may be imperiled at any such fire, and safely keep the same under his possession and control until satisfactory proof of ownership be made thereto; and shall, as far as practicable, prevent such property from being injured at such fire, and direct, when in his opinion it shall be necessary, the removal of goods, merchandise, and other property to a place of safety. He shall be authorized and empowered to exercise the functions of a peace-officer of such city, or city and county. Any person who shall willfully hinder or obstruct said officer in the lawful discharge of his duties shall be deemed guilty of a misdemeanor; provided, however, that nothing herein contained shall be so construed as to authorize such fire marshal to interfere in any manner with the proper discharge of the lawful duties and authority of any chief engineer of any fire department of such city and county. It shall be the duty of such fire marshal to institute investigations into the cause of such fires as occur in such city, or city and county; and for this purpose he shall have power to issue subpoenas and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpoenas issued by him shall be in such form as he may prescribe, and shall be

directed to and served by any police officer, or by any peace-officer of such city, or city and county. Any witness who refuses to attend or testify in obedience to such subpoena shall be deemed guilty of contempt, and be punishable by him as in cases of contempt in justices' courts in civil cases. He shall make a written report of the testimony to the district attorney, and institute criminal prosecutions in all cases in which there appears to him to be a reasonable and probable cause for believing that a fire has been caused by design. It shall be the duty of such fire marshal to aid in the enforcement of the fire ordinances of such city, or city and county, and for this purpose he is duly authorized to visit and examine all buildings in process of erection or undergoing repairs, and to institute prosecutions for all violations of the ordinances of such city, or city and county, which relate to the erection, alteration, or repairs of buildings, and for the prevention of fires. He shall exercise such additional powers as may be conferred upon him by the ordinances of such city, or city and county, to enable him fully to carry out the object and purpose of his appointment, and for the prevention of fires. He shall have power to appoint a deputy, who may exercise all the powers and perform all the duties of such marshal. The salary of such deputy shall be paid in the same manner as the fire marshal. Any person who saves from fire, or from a building endangered by fire, any property, and who willfully neglects for two days to give notice to such fire marshal, or to the owner of such property, of his possession thereof, shall be deemed guilty of grand or petit larceny, as the case may be, according to the value of said property; and any person who shall be guilty of false swearing in any investigation under this subdivision shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished therefor as in other cases of perjury. Such fire marshal may be removed at any time by the same power or powers that appointed him. And in case of the removal, resignation, or death of such fire marshal, his successor shall be appointed in the same manner as hereinbefore provided. Such fire marshal



is hereby authorized and empowered to appoint one or more persons, during the time of fire, for the purpose of saving and protecting property at such fire, and until it shall be delivered to the owner or claimant thereof, and such person or persons so appointed shall have, during such period, the authority and power of a policeman of such city, or city and county, and shall be known as the fire marshal's police; and each of such persons shall wear, while in the discharge of his duty, conspicuously displayed on his person, such badge or device as such fire marshal shall designate. No person shall be entitled to any property in the hands of such fire marshal, saved from fire, until satisfactory proof of ownership be made, and until the actual expenses incurred by such officer for the preservation and keeping of the same shall be paid to him by the owner or claimant of said property; and in case of dispute as to the amount of such expenses, said dispute to be determined by the justices' court of such city, or city and county. Such fire marshal is hereby duly authorized and empowered to hold and sell, or cause to be sold, at public auction, all property in his possession, saved from a fire or fires, for which no owner can be found, after advertising the same in two daily newspapers published in such city, or city and county, for the period of thirty days; provided, however, that if, upon application of such fire marshal to the police judge, it shall appear that such property is perishable, such judge may order such fire marshal to make sale thereof upon such notice as in the opinion of such judge may be reasonable. The proceeds of all such sales, together with an account thereof, after deducting all expenses, shall be by him deposited with the treasurer of such city, or city and county, to be held by such treasurer, subject to the claim of the owner of such property. Such fire marshal shall, from time to time, file with the clerk of such city, or city and county, under oath, a statement and description of all property in his possession, or under his control and sold by him, together with the amount of money by him deposited with the treasurer of such city, or city and county.

Maintain fire-alarm.

30. To maintain a fire-alarm and police telegraph in such city, or city and county.

Regulate drifting of sand.

31. To require the owners of lots to prevent sand from drifting, being blown, or otherwise moved therefrom, into or deposited upon any paved, planked, or macadamized street, alley, place, park, thoroughfare, or other public property, and to enforce all such regulations by sufficient fines and penalties.

Maintain house of correction.

32. To maintain, regulate, govern, manage, and carry on a house of correction, and to utilize therein and thereby the labor of all prisoners committed to the jail or house of correction of such city, or city and county, by the police courts and the superior courts; to prescribe rules of commitment and detention of prisoners, hours of labor, and all necessary rules, regulations, and restrictions for the proper operation of said institution. All prisoners sentenced to a term in the county jail, or house of correction, shall be deemed to have been sentenced to labor during such term. The judges of police courts and of the superior courts, in such city, or city and county, may sentence criminals to the house of correction when, in the judgment of such judge, the criminal is too young to be sentenced to the state prison, or when it is deemed better for the well-being of the prisoner. No person shall be sentenced to imprisonment in the house of correction for a shorter or longer term than that for which he might be sentenced in the jail of such city, or city and county, or in the state prison; and in no case whatever for a shorter term than three months nor for a longer term than three years. No person who might be sentenced to imprisonment in the state prison shall be sentenced to imprisonment in the house of correction if he is more than twenty-five years of age, if he has been once before convicted of a felony, or twice before convicted of petit larceny, nor unless, in the opinion of the court, imprisonment in the house of correction will be more for his interest than imprisonment in the state prison, and equally for the interest of the public. The

fact of a previous conviction may be found by the court upon evidence introduced at the time of sentence. The board of aldermen of the city, or city and county, shall appoint a competent superintendent of the house of correction of such city and county, who shall also be treasurer of said house of correction, and who shall give good and sufficient bonds, in a sum, and with sureties, to be approved by said board of aldermen, for the faithful discharge of his duties, and to whom shall be paid a salary, to be fixed by them, not to exceed two hundred and fifty dollars per month, payable monthly. Said superintendent shall only be removed for just and sufficient legal cause, after a fair and impartial investigation of his case by said board of aldermen. He shall, immediately after his appointment, and when authorized by said board of aldermen, appoint, subject to the approval thereof, such subordinates as may be deemed necessary by the board of aldermen; and the pay of such subordinates shall be fixed by said board of aldermen, not exceeding one hundred dollars per month to each party so appointed. The superintendent shall manage the general interests of the institution; see that its affairs are conducted in accordance with the requirements of this chapter and of such by-laws as the board of aldermen may from time to time adopt for the orderly and economical management of its concerns; to see that strict discipline is maintained therein; to provide employment for the inmates; adjust and certify all claims against the institution. And all by-laws made by said board of aldermen for the management of said institution, and not contrary to the laws of this state, shall be binding, in all respects, upon said superintendent, officers, and inmates; and said superintendent shall each year prepare and submit, under oath, to the board of aldermen a report of the concerns of said institution. The superintendent shall reside at the house of correction, have charge of its inmates and property, and be its treasurer; keep accounts of all his receipts and expenditures, and of all such property and account in such manner as the said municipal council may require, and hold all books and papers open to their inspection.

Maintain an industrial school.

33. To maintain and regulate an industrial school for the detention, management, reformation, education, and maintenance of such children, under the age of eighteen years, as shall be committed or surrendered thereto by the courts of such city, or city and county, as vagrants, living an idle or dissolute life, or who shall be convicted by the police or superior court of any crime or misdemeanor, or who, being tried for any crime or misdemeanor in such court, shall be found to be under fourteen years of age, and to have done an act which, if done by a person of full age, would be a crime or misdemeanor; and said council is empowered to regulate the commitment, detention, and discharge of such children, and to designate and prescribe the causes, terms, and conditions thereof; and the said police court and superior court shall have power to adjudge that such persons so convicted shall be so imprisoned; and persons so convicted shall remain at said industrial school until he or she shall attain majority, unless a shorter time shall be fixed by said court in the commitment. Such children shall be kept at such employments and be instructed in such branches of useful knowledge as may be suitable to their age and capacity. The municipal council may provide for binding out such children as apprentices during their minority, to learn proper trades and employments. There shall be a superintendent of said industrial school, to be appointed by the board of aldermen. He shall be deemed a public officer, whose salary shall not exceed two hundred and fifty dollars per month, and such other employees as may be necessary, with salary not to exceed one hundred dollars per month each. Such police and superior court, or either of them, upon the application of the board of aldermen, and upon its certificate that it is expedient to do so, shall have power to discharge any child committed to said industrial school, and who is not bound out as an apprentice, or adopted, and may in like manner discharge such child upon the application, in writing, of the parents or guardian of such child, who shall not have been bound out or adopted, and after ten

days' notice, in writing, to the board of aldermen, if, upon the hearing of the application, such police court or superior court shall consider that such discharge is expedient.

Maintain alms-house. etc.

34. To establish and maintain an alms-house, a city and county hospital, a small-pox hospital, and such other institutions of the same character as are or may be necessary, and to perpetuate such institutions as may have been heretofore established in such cities, or cities and counties, heretofore incorporated.

Payment of judgment.

35. To order paid out of the general fund any final judgment against such city, or city and county.

Public pound.

36. To maintain, regulate, and govern a public pound, fix the limits within which animals shall not run at large, and appoint pound-keepers, who shall be paid for out of the fines imposed and collected of the owners of impounded animals, and from no other source.

Improvement of water front.

37. To allow and order paid out of the street-department fund such sums as may be deemed necessary for improvement of streets bordering on the water front, and improvement of sewers and streets in front of public property.

Burial of indigent dead.

38. To allow and order paid out of the general fund such sums as may be necessary for burying the indigent dead.

Pay of special counsel.

39. To allow and order paid out of the general fund such sums, not to exceed five thousand dollars in any one fiscal year, as may be deemed necessary for the employment of special counsel.

Enact certain regulations.

40. To enact such general and special police regulations for such city, or city and county, as shall secure the health, comfort, and security of the inhabitants, the safety and security of property and life, and to enforce the same therein.

Regulation of offices and departments.

41. To make needful rules and regulations for the administration, care, and maintenance and conduct of all departments and offices of such city, or city and county, when not otherwise in this chapter provided for, so as to secure more perfect safety of the public funds, and greater efficiency in all departments of the service, and to enforce the observation of such rules and regulations, and to authorize the appointment of such additional clerks, assistant deputies, and employees as in their judgment may be necessary for the proper discharge of the duties of such offices and departments.

General fund.

42. To appropriate the moneys derived from the revenue of such city, or city and county, to a general fund, and such funds as have been heretofore or shall be hereafter established by law, or the said council, and as shall be necessary for the proper and economical administration of such city, or city and county.

Free library.

43. To establish, maintain, and regulate free public libraries and reading-rooms, and to perpetuate such free libraries and reading-rooms as may have been heretofore established in such cities, or cities and counties, heretofore incorporated.

Law library.

44. To provide, fit up, and furnish, and provide with fuel, lights, stationery, and all necessary attendance, conveniences, and care, rooms convenient and accessible to the courts, sufficient for the use and accommodation of a law library and those who have occasion to use it, and approved by the officers having the government of said library, and to perpetuate and in the same manner provide for any law library now existing in such city, or city and county, the use of which has been secured by law to the courts, the bar, and the city, or city and county, government. The municipal council shall have power, and it shall be their duty, to appropriate, allow, and order paid out of the proper fund such sums as may be necessary therefor.



Medical dispensary.

45. To establish and maintain a free medical dispensary, and to perpetuate any such heretofore existing in such city, or city and county.

Building committee.

46. To appoint a committee of five, three from the board of aldermen and two from the house of assistant aldermen, to be denominated the "building committee," to superintend the construction of buildings hereafter to be constructed for such city, or city and county, or now in progress of construction therefor, and to appoint a secretary for such committee, and to fix his compensation, and, if necessary, also to appoint a superintendent and architect therefor, fix their respective compensation, and require of such superintendent and architect to execute bonds, with two sureties, conditioned for the faithful performance of their duty, in such sums as may be deemed necessary.

Division of city into wards.

47. To divide the city, or city and county, by ordinance, into twelve wards, to fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general election, nor within twenty months after the same shall have been established or altered.

Levy and collection of revenue.

48. To provide for the levy, collection, and appropriation of revenue heretofore by law provided to be collected for the erection and completion of any public building in and for such city, or city and county, in the manner as heretofore provided by any law of this state for the levy, collection, and appropriation of the same.

Board of equalization.

Sec. 65. The municipal council shall constitute a board of equalization for such city, or city and county, and as such shall have the powers conferred by the general laws regulating the assessment and collection of taxes, when not inconsistent with the provisions of this chapter.

### Definition of public streets.

Sec. 66. All the streets, lanes, alleys, places, or courts, as laid down on the official map of such city, or city and county, and all other streets, lanes, alleys, places, or courts now dedicated or open to public use, are hereby declared to be open public streets, lanes, alleys, places, or courts for the purpose of this chapter; and the municipal council is invested with jurisdiction to order any of the work mentioned in section sixty-seven of this act to be done on any of said streets, lanes, alleys, places, or courts, when the grade and width of said streets, lanes, alleys, places, or courts have been officially established; and for the purposes of this chapter the grade of all intermediate or intersecting streets, lanes, alleys, places, or courts in any one block shall conform to the grades as established of the crossings of the main streets.

### Grading streets.

Sec. 67. The municipal council is hereby authorized and empowered to order the whole or any portion of the said streets, lanes, alleys, places, or courts graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, piled or repiled, capped or recapped, and to order sidewalks, sewers, cess-pools, man-holes, culverts, curbing, and cross-walks to be constructed, and to order any streets and sewers cleaned, and to order any other work to be done which shall be necessary to make and complete the whole or any portion of said streets, lanes, alleys, places, or courts, and they may order any of the said work to be improved; and when any street, or portion of a street has been or shall hereafter be constructed to the satisfaction of the municipal council and the superintendent of streets, and shall have a brick sewer, or cement or iron-stone pipe constructed therein, under such regulations as said municipal council shall adopt, the same shall be accepted by it, and thereafter shall be kept open and improved by such city, or city and county, the expense thereof, together with all work done in front of city, or city and county, property, to be paid out of the street-department fund, or other property fund; provided, that the municipal coun-

cil shall not accept of any portion of the street less than the entire width of the roadway (including the curbing and one block in length, or one entire crossing); and provided further, that it may, partially or conditionally, accept any street, or portion of a street, without a sewer or pipe therein as above stated, if a sewer or pipe therein shall be deemed by them unnecessary; but the lots of land previously assessable for the cost of construction of a sewer or pipe shall still remain and be assessable for such cost, and for the cost of repair and restoration of the street damaged in the said construction, when thereafter a sewer or pipe shall be deemed necessary, the same as if no partial or conditional acceptance had ever been had. The said superintendent of streets shall keep in his office a register of all accepted streets, the same to be indexed so that reference may be easily had thereto.

Special assessment for work on private property.

Sec. 68. The municipal council may order work authorized by this chapter, the cost and expense of which is made chargeable, or may be assessed upon private property by special assessment, to be done, after notice of its intention so to do in the form of a resolution describing the work, and signed by the clerks of both branches of the municipal council, has been published for the period of five days in the paper doing the printing for such city, or city and county, and also in two daily newspapers, one of which newspapers shall be published as a morning edition and one as an evening edition, printed and published in such city, or city and county, for five days, Sundays and non-judicial days excepted; provided, that no such notice shall be given or order made for the grading of any street, unless the majority of the frontage of the lots and land fronting on the work proposed to be done, and described in said resolution, or which is to be made liable for such grading, except public property, shall have been represented by the owners thereof, or by their agents, in a petition to the said municipal council, stating that they are the owners and in possession or agents of the lots named in the petition, and also requesting that such improvements or

street work shall be done. All owners of land, or lots, or portions of lots, who may feel aggrieved or have objection to the ordering of the work described in said notice, or who may have objection to any of the subsequent proceedings of the municipal council in relation to the work mentioned in such notices of intention, or may have any objections to any of the acts of the superintendent of streets, and the city, or city and county, surveyor of such city, or city and county, in the discharge of any of the obligations or duties imposed upon him or them by virtue of their offices, shall file with the clerk of either branch of the municipal council a petition or remonstrance, wherein they shall set forth in what respect they feel aggrieved, or the acts or proceedings to which they object, which petition or remonstrance shall be passed upon by the municipal council, and its decisions thereon shall be final and conclusive; but the municipal council shall not order the work described in said notices to be done unless all objections and protests that may have been presented and filed as aforesaid shall have been by them disposed of. Should the owners or agents of more than one half in frontage of the lots and lands fronting on the work proposed to be done, and designated in said notice or resolution, or liable to be assessed for work, file with the clerk of either branch of the municipal council written objections against any grading described in said notice, at any time before the expiration of the publication of said notice of intention, and the publication thereof, as hereinbefore provided, then and thereupon the municipal council shall be barred from proceeding further for the period of six months, and shall not renew the notice of intention for doing any street work so protested against within six months, unless the owners or agents of a majority of the frontage of the lots and land fronting on said street work, or liable to be assessed therefor as aforesaid, shall petition anew for the work to be done. At the expiration of any notice of intention, the municipal council shall be deemed to have acquired jurisdiction to order any work to be done which is authorized by this chap-

ter; and it is further provided, that where any public street shall have been graded, or graded and macadamized, or graded and paved, for the distance of one or two blocks upon each side thereof of any one or two blocks or crossing of a street which is not improved, it shall be the duty of the municipal council, upon the recommendation of the superintendent of streets, to order the notice provided in this section to be given without the petition provided first aforesaid; and if the owners of three fourths of the frontage of the land and lots fronting on such portions of said streets to be graded or improved shall, within the time prescribed in said notice, file written objections to the improvement of the said street, such objection shall be a bar for six months for the doing of said work or making said improvement, except when the work or improvement proposed to be done is the construction of sewers, man-holes, culverts, cross-walks, and side-walks, the municipal council shall duly consider said objections before ordering said work; and if it shall decide and declare by an entry in the minutes of both branches thereof that the objections so made are not good, thereupon it shall be deemed to have acquired jurisdiction to order any such street work to be done that is described in said notice; provided further, that when one half or more of the grading, planking, macadamizing, paving, side-walking, or sewerage of any one street, lying between two main street-crossings, has been already performed, the municipal council may order the remainder of such grading, planking, macadamizing, paving, sidewalking, or sewerage to be done, notwithstanding the objections of any or all of the property owners.

Manner of compelling certain street work to be done.

Sec. 69. The owners of more than one half in frontage of lots and lands fronting on any street, lane, alley, place, or court, mentioned in section sixty-six of this act, or their duly authorized agents, may petition the said municipal council to order any of the work mentioned in section sixty-seven of this act to be done; and the said board may order the work mentioned in said petition to

be done, after notice of their intention so to do has been published as provided in section sixty-eight of this act. No order or permission shall be given to grade, or pile and cap, any street, lane, alley, place, or court, in the first instance, or any portion thereof, without extending or completing the same throughout the whole width of said street, lane, alley, place, or court. When any such work has heretofore been done, or when any such work shall hereafter be done, in violation of this section, neither the lots or portions of lots in front of which such work has been or may be done hereafter, nor the owners thereof, shall be exempt from assessments made for the payment of the work afterwards done to complete said street, lane, alley, place, or court to its full width, as provided in this chapter.

Map to be transmitted.

Sec. 70. At the expiration of publication of such notice, the clerk of either branch of the municipal council shall cause to be transmitted to the city, or city and county, surveyor, and to the superintendent of streets of such city, or city and county, a copy of the resolution, order, or ordinance authorizing the said street work. The said surveyor shall thereupon, within fifteen days from the completion of the publication mentioned in the last section, transmit to said municipal council a map of the district to be benefited by said street improvement; which map shall show the relative location of each lot to the work proposed to be done, and be signed by said surveyor. The superintendent of streets shall also thereupon, within fifteen days from the completion of said publication, transmit to the municipal council an estimate of the cost and expense of said improvement, which said estimate shall contain the items composing the gross sum estimated, and shall be signed by said superintendent.

Adoption or modification of map.

Sec. 71. The municipal council shall, at the first meeting after the receipt of such map and estimate, or as soon as may be practicable, either adopt, modify, or reject the same, and after its final action upon said map and estimate, the same shall be transmitted to said superintendent of



streets, who shall record the same in a book to be kept by him for such purpose; and the said superintendent shall forthwith prepare plans and specifications for such street work, and the clerk of either branch of the municipal council shall cause to be conspicuously posted in the office of said superintendent, and also published five days (non-judicial days excepted) in the newspapers hereinbefore mentioned, a notice inviting sealed proposals to contract for the work contemplated to be performed; such work not to be performed, nor any contract for the same made or entered into, until after the moneys sufficient for the payment of the costs and expenses thereof shall have been levied, collected, and paid into the treasury of such city, or city and county, as hereinafter provided; which notice shall substantially contain the plans and specifications above mentioned; and all notices, resolutions, and orders required to be posted or published under the provisions of this chapter shall be posted or published, or both posted and published, as the law may require, by said clerk, as a matter of course, and without any special direction or authority from said municipal council. The said superintendent shall furnish specifications for the performance of any and all street work ordered by the municipal council and authorized by this chapter, and the time within which said work must be completed after entering into the contract for doing the same. All proposals shall be delivered to the clerk of either branch of the municipal council, and the house of which he is the clerk shall, in open session, open, examine, and publicly declare the same; and all proposals shall be for a price payable in gold coin of the United States; provided, said municipal council may reject any and all proposals should they deem it for the public good, and also may reject the proposals of any party who may be proved delinquent or unfaithful with any former contract with such city, or city and county; and if all proposals shall be rejected, the municipal council shall direct the clerk of either house thereof to again post said notice, and publish the same as in the first instance. All proposals shall be accompanied with a bond to such city, or city

and county, to be approved by the clerk of either house of said municipal council, in the sum of one thousand dollars, and in such additional amount as may be fixed by said superintendent of streets, with two good and sufficient sureties, who must be freeholders of such city, or city and county, said sureties to justify in double the amount, conditioned that the party making such proposal shall, or will, within ten days after notice from said superintendent that the moneys for the cost and expenses for such work have been paid into the treasury, enter into a contract with such city, or city and county, in pursuance of such proposal, and to commence such work within five days after the execution of such contract, and complete the same within the time mentioned in the said plans and specifications, or either of them, or within any extended time; it is further provided, that all persons proposing, owners included, who shall fail to enter into any contract as herein provided, or to complete the contracts entered into, are hereby prohibited from proposing a second time for the same work; and in case of owners, they are hereby prohibited from electing to take the same work a second time, and from entering into any contract concerning the same. At any time within five days after such money has been paid into the treasury, the owners of a majority of the frontage of lots and lands liable to be assessed for said work, or their agents, and who shall make oath that they are such owners, or the agents of such owners, may elect to do the said work, and to enter into a written contract to do the whole work at the price for which the same is awarded, upon giving the bond as hereinafter provided; and they shall commence said work within five days after the execution of such contract, and shall prosecute it diligently and continuously, and complete it within the time limited in the contract, or within any extended time; but should the said contractor, or the property owners, fail to prosecute the same diligently or continuously, in the judgment of said superintendent, or complete it within the time prescribed in the contract, or within the extended time, then it shall be the duty of said superintendent to report the same to

the municipal council, who shall immediately order the clerk of either branch of the municipal council to advertise for proposals as in the first instance, and relet the contract in the manner hereinbefore provided; and it is further provided, that all contractors for street work shall, at the time of entering into said contract, execute a bond payable to such city, city or county, with two or more sureties, in the sum of not less than one thousand dollars, and in such additional amount as may be fixed by said superintendent, conditioned for the faithful performance of said contract; and said sureties shall justify in double the amount of the penalty fixed in said bond; such sureties to justify before said superintendent or his deputy, and the qualifications and responsibility of such sureties shall be the same as prescribed for sureties on the official bonds of the officers of such city, or city and county; and it is further provided, that in case of the non-fulfillment by the obligor in either of the bonds mentioned in this section, of the conditions thereof, it shall be the duty of the city, or city and county, attorney to sue for and collect the sum in said bond mentioned, in any court of competent jurisdiction, and pay the same into the city and county treasury, to the credit of the proper fund.

#### Assessment.

Sec. 72. After the proposal shall have been received and considered by the municipal council, the superintendent of streets shall make an assessment in proportion to the benefit upon all the land in the district shown upon said map. Said assessment shall show the work proposed to be done, the estimated cost thereof, the rate per front foot assessed against each lot within the assessment district, the amount of each assessment, the name of the owner of each lot, or portion of lot, if known to the superintendent, and if such owner be unknown, the word "unknown" shall be written opposite the number of the lot (but an assessment made to a person not the owner shall not render such assessment illegal), and the amount assessed thereon, the number of each lot, or portion of lot, assessed, and shall have attached thereto a diagram showing the assessment

district, and the relative location of each lot assessed to the work proposed to be done, each lot being numbered in said assessment and diagram; and when completed, shall be signed by said superintendent, and transmitted to the board of aldermen.

Notice of hearing objections to assessment roll.

Sec. 73. At the first meeting of the board of aldermen, after the receipt by it of the assessment made by said superintendent, as soon thereafter as may be practicable, it shall cause notice of the time and place of the hearing of all objections to said assessment to be published for at least five days (Sundays and non-judicial days excepted), prior to the time of such hearing, in two daily newspapers, one published as a morning edition and one as an evening edition, in such city, or city and county. All objections shall be heard in open session of said board of aldermen. At said hearing said board of aldermen may alter, modify, or confirm said assessment, as it shall deem proper; and said superintendent shall thereupon record said assessment and diagram in a book to be kept by him for that purpose. When so recorded, the several amounts assessed shall be deemed a tax levied upon the lands described in said assessment and diagram, upon which they are respectively assessed, and shall be a lien upon such parcels of land. Said superintendent shall give to each assessment a number by which the fund collected for said work shall be known, and shall immediately after the record of said assessment, as hereinbefore provided, deliver the said assessment and diagram to the tax collector of such city and county, who shall thereupon cause to be published for ten successive days (Sundays and non-judicial days excepted), in two newspapers of general circulation, one of which shall be published as a morning edition and one as an evening edition, published in such city, or city and county, a notice containing a description of the proposed improvement, and of the portion of street or streets upon which the same is proposed to be done, that the same is in his hands for collection; that if said assessment is not paid within fifteen days from the date of the last publication

of such notice, that the same will be delinquent; that the property assessed, and upon which the assessment remains unpaid, will be sold by said tax collector for said assessment, a brief description of the property assessed, the amount assessed thereon, and the time and place of sale, which shall be not less than five nor more than ten days after such delinquency.

#### Sale of property for unpaid taxes.

Sec. 74. On the day fixed for the sale, said tax collector, between the hours of ten A. M. and three P. M., must commence the sale of the property advertised, upon which the assessment remains unpaid, and sell the same at public vendue, in the office of said tax collector, to the person who will take the least quantity of the respective parcels of land assessed, and pay the assessment thereon, together with two dollars to said tax collector for the duplicate certificate of sale. If the purchaser does not forthwith pay the amounts of the assessment and costs by him bid, the tax collector shall immediately proceed to sell such parcel or parcels again, in the same manner, for the amount of said assessment and costs.

#### Duplicate certificate.

Sec. 75. After receiving the amount of the assessment and costs, said tax collector must make out in duplicate a certificate, dated on the day of sale, showing the name of the person assessed, when known, a brief description of the property sold, the street improvement for which the assessment was levied, the number of the assessment, that it was sold for an assessment, the amount thereof, that the same is subject to redemption at any time within one year after sale, and specifying the date when the purchaser will be entitled to a deed; and upon payment to said tax collector of the fee for recording the same, said tax collector shall deliver one of such duplicates to the purchaser, and the same day file the other in the office of the recorder of the county, or city and county, who shall record the same.

#### Vesting of lien.

Sec. 76. Upon filing the said duplicate in the office of said recorder, the lien aforesaid is vested in the purchaser, and is only divested by payment

to him, or to the treasurer of such city, or city and county, for his use, of the purchase money and costs, and two per cent per month and fraction of a month up to date of redemption thereon. A redemption of the property sold may be made by the owner, or any party in interest, within twelve months from the date of purchase.

Deed to purchaser and conclusions of law.

Sec. 77. If property is not redeemed within twelve months from the date of such sale, the tax collector must make to the purchaser, or his assignee a deed reciting substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The matters recited in the certificate of sale must be recited in the deed, and such deed, duly acknowledged, shall be prima facie evidence that:

1. The property was assessed as required by law;

2. That the assessment was not paid;

3. That the property was sold at the proper time and place, and by the proper officer;

4. That the person who executed the deed was the proper officer therefor;

5. That the title to the property therein described is vested in the purchaser, his heirs, or assigns, free from all incumbrances, except taxes for purposes of revenue.

Payment into treasury by tax collector.

Sec. 78. Said tax collector shall daily pay into the treasury of such city, or city and county, to the credit of the proper street-improvement fund, all moneys collected by him on account of such fund, and shall, upon the receipt of any assessment, mark the same paid upon the assessment roll, and shall receipt to the person paying the same therefor, which receipt shall show the number of the street-improvement fund, the work done, the number of the lot upon which the assessment is paid, and the amount thereof.

Certificate of payment into treasury.

Sec. 79. When the full amount of such assessment has been collected by said tax collector, the said collector shall certify to the superintendent



of streets that the same has been collected and paid into the treasury of such city, or city and county. Upon the receipt of such certificate from the tax collector, the said superintendent shall forthwith notify the person whose proposal shall have been accepted by the municipal council, as aforesaid, of the payment of such money into the treasury, and that such city, or city and county, is ready to enter into a contract with such person for such work, in pursuance of said proposal; and said superintendent shall hold himself in readiness to execute said contract on behalf of such city, or city and county. The board of aldermen may extend the time of performance of the contract, as fixed by the contract of specifications, upon the recommendation of said superintendent; but the time of the performance shall in no event be in any manner extended beyond sixty days after the time fixed in such specifications or contract for the completion of said work.

Certificate to contractor and publication of notice.

Sec. 80. Whenever any contract shall have been completed to the satisfaction and acceptance of the superintendent of streets, he shall deliver to the contractor a certificate to that effect, and shall also notify said board of aldermen that said work and improvement, and the contract therefor, have been completed to his satisfaction and acceptance, and that he has given to said contractor his certificate to that effect. Thereupon said board of aldermen shall direct the clerk of said board to give notice by publication for five days, in a newspaper published and circulated in such city, or city and county, that said work and improvement, and the contract therefor, have been completed to the satisfaction and acceptance of the superintendent of streets of such city, or city and county.

Appeal of property owner.

Sec. 81. Any person owning property which has been assessed to pay the cost and expenses of such work and improvement, feeling aggrieved at the manner in which such work and improvement shall have been done, or feeling aggrieved at any act or determination of said superintendent of streets in relation to said work and improvement subsequent to the date of the execution of the con-

tract therefor, shall, within five days from the first publication of said notice, appeal to said board of aldermen by briefly stating their objections in writing, and by filing the same with the clerk of said board. At the meeting of the board next ensuing after the expiration of said five days allowed above for filing said objections, the said board, if no objections have been filed, shall, by resolution, ratify and confirm all said acts of said superintendent of streets, and shall accept such work and improvement. But if any such objections last aforesaid shall have been filed within said five days, then said board shall fix the time for hearing such objections, and shall direct the clerk of said board to notify all persons desirous of being heard upon said objections of the time and place when and where said board will hear all parties desiring to be heard upon the same. Said notice shall be in writing, and shall be given by posting the same in three of the most conspicuous public places in such city, or city and county, and published five days in two daily newspapers (one morning and one evening edition), at least five days before the time set for said hearing. At the time and place fixed for said hearing of said objections, said board shall proceed to hear all parties present and desiring to be heard upon the matters specified in such objections. And whenever said board shall have determined, by personal inspection or otherwise, that said work and improvement objected to have been completed in all respects according to the contract therefor, they shall, by resolution, accept said work and improvement, and ratify and confirm all said acts of said superintendent of streets in relation thereto.

Notice to superintendent of streets.

Sec. 82. If, upon such hearing, said board of aldermen shall determine, by personal inspection or otherwise, that said work and improvement have not been performed according to the contract therefor, then they shall notify the said superintendent of streets to that effect, specifying in said notice to him the particulars in which said contract has not been performed. And said superintendent of streets shall thereupon at once cause

said contractor to complete said work and improvement under the contract therefor in those particulars specified by said board in said notice to said superintendent of streets. Whenever said board shall ascertain that said work and improvement have been completed in all respects according to the terms of the contract therefor, they shall, by resolution, accept such work and improvement. All acts and determinations of said board of aldermen upon appeals, under the provisions of this and the next preceding section, shall be final and conclusive upon all persons entitled to an appeal thereunder.

Payment to contractor.

Sec. 83. Whenever any work or improvement shall have been so completed upon any street, lane, alley, court, or place in such city, or city and county, for the payment of costs and expenses of which an assessment shall have been levied and collected under the provisions of this act, the said board of aldermen shall, by resolution, direct the treasurer to pay out of the appropriate fund, at the expiration of fifteen days from the passage of such resolution, to the contractor who shall have so completed said work and improvement, the amount to which he is entitled under the terms of his contract; provided, however, that such payment by the treasurer shall be made subject to the following provisions, to-wit: that any person or persons who have performed labor upon or furnished materials for the construction of said work or improvement, may file within said fifteen days, with the treasurer, any written claim or claims he or they may have on account of such labor performed or materials furnished; and at the expiration of said fifteen days, said treasurer shall pay to said contractor the amount specified in said last-named resolution, less the aggregate amount of all such claims, if any, theretofore filed in accordance with the provisions of this section. Should any money be retained by said treasurer on account of such claim or claims, he shall pay over the amount of each claim only upon the order therefor of said contractor, indorsed by the claimant entitled thereto, or upon the order therefor of any court of competent jurisdiction.

### Repayment of moneys.

Sec. 84. And when all moneys required to be paid by the said treasurer, under the last preceding section, shall have been by him paid, as required in said section, if there is any money remaining in the fund out of which said payments shall have been made as aforesaid, it shall be the duty of said treasurer immediately to report the amount of said remaining moneys to said board of aldermen. Thereupon it shall be the duty of said board to empower and direct said treasurer to distribute and repay such remaining moneys, and in the proportion of the amounts of the original assessments, to the persons by or for whom said original assessments were paid, or to their legal representatives. And it shall be the duty of said treasurer, in each instance of such repayment, to require, receive, and file away a receipt of said proportionate amount from said persons or their legal representatives. And in no case shall a contractor who has failed to fulfill the terms and conditions of his contract be entitled to receive any portion of the contract price therefor, and he shall be deemed to have forfeited all right to recover or receive any compensation whatever under said contract.

### Kind of labor on accepted streets.

Sec. 85. No contract to do any work upon any accepted streets, other than cleaning streets and sewers, shall be let, but such work shall be done under the direction of the superintendent of streets, by laborers employed by such city, or city and county, through said superintendent, at such wages as may be from time to time fixed by the municipal council. All contracts for materials necessary to be used for work on accepted streets must be given by the municipal council to the lowest bidder offering adequate security, after due public notice, for not less than five days, in at least two newspapers published in such city, or city and county.

### Repairing streets, sewers, etc.

Sec. 86. In case of urgent necessity, the superintendent of streets may, and it shall be his duty to, repair any of the unaccepted public streets, sewers, or crossings cornering thereon; and the

expense of the same shall be paid out of the street-department fund, in the same manner as provided for the improvement of accepted streets; and all such repairs shall be made in uniformity with the work to be repaired, but such repairs between two main streets shall not exceed in cost the sum of two hundred dollars, and the repairs of any crossing shall not exceed in cost the sum of one hundred dollars; provided, the sums so expended shall not exceed the sum of two thousand dollars in any one month. Such work, and the material therefor, shall be performed and provided in the same manner as provided in the foregoing section concerning labor and material for accepted streets.

No recourse on city for damage for accident on defective street.

Sec. 87. No recourse shall be had against such city, or city and county, for damage to person or property suffered or sustained by or by reason of the defective condition of any street or public highway of such city, or city and county, whether originally existing or occasioned by construction, excavation, or embankment, or want of repair of said street or public highway; and whether such damage be occasioned by accident on said street or public highway, or by falling from or upon the same; but if any person while carefully using any street or public highway of such city and county, graded, or in course of being graded, or carefully using any other street or public highway leading into or crossing the same, be injured, killed, lost, or destroyed; or any horses, animals, or other property be lost, injured, or destroyed, through any defect in said street or public highway, graded, or in course of being graded, as aforesaid, or by reason of any excavation or embankment in or of the same, or by falling from or upon such embankment or excavation, then the person or persons upon whom the law may impose the duty either to repair such defect or to guard the public from the excavation, embankment, or grading aforesaid, and also the officer or officers through whose official neglect such defect remained unrepaired, or said excavation or embankment remained unguarded as aforesaid, shall be jointly and several-

ly liable to the person or persons injured for the damages sustained.

Improvement of streets by property owners.

Sec. 88. The superintendent of streets may require, at his option, by notice in writing, to be delivered to them personally or left on the premises, the owners, tenants, or occupants of lots or portion of lots liable to be assessed for work done under the provisions of this chapter, to improve forthwith any of the work mentioned in section sixty-seven of this act in front of the property of which he is the owner, tenant, or occupant, to the center of the street or otherwise, as the case may require, or to remove all filth, sand, earth, or dirt from the street in front of the premises; and, by a like notice, to be served personally upon the president or any officer of a railroad corporation or company, or to be left at the office of said corporation or company, to require such corporation or company to improve forthwith any work mentioned in this chapter, which said corporation or company are required by law to do and perform; said notice to specify what improvement is required or work is to be done. After the expiration of five days, if such notice shall not have been complied with, such proceedings shall be taken by the proper authorities to cause the moneys necessary for the doing of such work to be paid into the treasury as is hereinbefore provided in reference to work and improvements upon unaccepted streets, and to be paid for in the same manner.

Notice, how served.

Sec. 89. Notices in writing, which are required to be given by the superintendent of streets, under the provisions of this chapter, may be served by any police officer, or by any male citizen over the age of twenty-one years; and the fact of such service shall be verified by the oath of the person making it, taken before the superintendent (who is hereby authorized to administer oaths), or any other person authorized to administer oaths. The superintendent of streets shall keep a record of the fact of giving such notices and proof of service, and shall keep the original proof thereof.

Levy of taxes.

Sec. 90. 1. On or before the fourth Monday of July, annually, the municipal council of such city,



or city and county, shall levy the amount of taxes for city, or city and county, purposes, required by law to be levied upon all property not exempt from taxation; said amount to be such as the said council may deem sufficient to provide for the payment of all demands upon the treasury authorized by law to be paid out of the same; provided, that such taxation, exclusive of any and all special taxes, now or which hereafter may be authorized by law, shall not in the aggregate exceed the rate of one dollar upon each one hundred dollars valuation of the property assessed; provided further, that the said municipal council shall, in making the said levy of taxes, apportion and divide the taxes so levied, and to be collected and applied to the several specific funds known as the corporation debt fund, general fund, school fund, street-light fund, street-department fund, or other fund provided for by law or by the said council, according to the estimate of said council of the necessities of the said funds, except that the rate for the school fund shall not exceed thirty-five dollars for each pupil who shall have attended and been taught the preceding year; and provided further, that the said municipal council shall authorize the disbursement of said money for the purposes hereafter mentioned; and at the close of each fiscal year the said council shall direct the treasurer to transfer all surplus moneys of all funds, excepting the school fund, after liquidating or providing for all outstanding demands upon said funds, to the general fund; but no money shall be transferred from either of the said funds to another, nor used in paying any demands upon such other fund, until all the indebtedness arising in any fiscal year, and payable out of said funds so raised for said fiscal year, shall have been paid and discharged.

Corporation debt fund.

2. The corporation debt fund shall be applied to and used for the payment of the interest, and to extinguish or provide for the extinguishment of the lawfully contracted funded debts of such city, or city and county, in accordance with laws in force at the time of the organization of such city, or city and county, under this act.

General fund.

3. The general fund shall be applied and used for the payment of all sums authorized by law to be paid out of the general fund, and not otherwise provided for in this chapter.

School fund.

4. The school fund shall be applied and used for the payment of all sums authorized by law to be paid out of the school fund.

Street-light fund.

5. The street-light fund shall be applied and used in the payment for lighting the streets of such city and county, and for the repair of lamps and posts, in pursuance of any existing or future legal contract of such city and county.

Street department fund.

6. The street department fund shall be applied and used for repairing and improving all streets, lanes, and the crossings thereof, which shall have been or hereafter may be accepted, so as to become a charge upon such city and county; for cleaning streets, lanes, crossings and sewers; and for the expense of improvements of streets in front of school lots; for all street work in front of or assessable upon property belonging to such city and county; for all street work on the water front of such city and county, not by law assessable upon private property; for all work authorized by the said council, upon the recommendation of the superintendent of streets, as immediately essential for the safety of life, limb, or property, or necessary for public health, or which cannot be by law assessed upon private property, and for such other objects relating to streets and highways as shall be directed by law or said council to be paid therefrom. All moneys received from licenses on vehicles, from the income from street railroads, from fines and penalties for violation of any law or ordinance regulating vehicles on the public streets, shall be paid into the street-department fund.

No payment of public funds unless authorized by law.

Sec. 91. No payment can be made from the treasury or out of the public funds of such city, or city and county, unless the same be specifically authorized by law, nor unless the demand which is paid be duly audited, as in this chapter provid

ed, and that must appear upon the face of it. No demand upon the treasury shall be allowed by the auditor in favor of any person, officer, company, or corporation, in any manner indebted thereto without first deducting the amount of such indebtedness, nor to any person or officer having the collection, custody, or disbursement of public funds, unless his account has been duly presented, passed, approved, and allowed, as required by law; nor in favor of any officer who shall have neglected to make his official returns or his reports, in writing, in the manner and at the time required by law, or by the regulations established by the municipal council; nor to any officer who shall have neglected or refused to comply with any of the provisions of this or any other act of the legislature regulating the duties of such officer, on being required in writing to comply therewith by the president of the board of aldermen, or any member of the finance committee of the municipal council; nor in favor of any officer for the time he shall have absented himself without lawful cause, from the duties of his office, during the office hours prescribed in this chapter; and the auditor may examine any officer receiving a salary from the treasury, on oath, touching such absence.

Definition of "audited."

Sec. 92. The term "audited," as used in this chapter with reference to demands upon the treasury, is to be understood their having been presented to and passed upon by every officer and board of officers, and finally allowed as required by law; and this must appear upon the face of the paper representing the demand, or else it is not audited.

What demands to be audited.

Sec. 93. Every demand upon the treasury, except the salary of the auditor, and including the salary of the treasurer, must, before it can be paid, be presented to the auditor for such city, or city and county, to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of such city and county is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "allowed," with the

name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the auditor, or the municipal council, or either branch thereof, or any board, committee, or officer, of any demand which, upon the face of it, appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the treasurer or other disbursing officer for paying the same. No demand can be approved, allowed, audited, or paid, unless it specify each several item, date, and value composing it, and refer to the law, by title, date, and section, authorizing the same.

Demands of auditor, how allowed.

Sec. 94. The demand of the auditor for his monthly salary shall be audited and allowed by the president of the board of aldermen. All other monthly demands on account of salaries, allowances, or compensations fixed by law or this act, and made payable out of the treasury of such city, or city and county, may be allowed by the auditor without any approval. All demands payable out of the school fund must, before they can be allowed by the auditor, or paid, be previously approved by the board of education, or by the president thereof, and superintendent of schools, acting under express authorization of said board. Demands for teachers' wages, or other expenses appertaining to any school, cannot be approved, allowed, or audited to any amount exceeding the share of school money which such school will be entitled to have apportioned to it during the current fiscal year. All other lawful demands payable out of the treasury, or any public funds of such city, or city and county, and not hereinbefore in this section specified, must, before they can be allowed by the auditor in any manner, or recognized, or paid, be first approved by the municipal council, except, if the demand be under two hundred dollars, by the mayor and two members of the board of aldermen, appointed by the said board for that purpose, with power to act under and subject to its instructions and regulations during recess of the said board. The auditor must number and keep a record of all demands on the

treasury allowed by him, showing the number, date, amount, and name of the original and present holder, on what account allowed, out of what fund payable, and, if previously approved, by what officer, officers, or board it has been so approved; and it shall be deemed a misdemeanor in office for the auditor to deliver any demand with his allowance thereon until this requisite shall have been complied with.

Who may administer oaths.

Sec. 95. The mayor, mayor's clerk, auditor, auditor's clerk, chief of police, police commissioners, president of the board of education, each member of the municipal council, and every other officer required by law or ordinance to allow, audit, or certify demands upon the treasury, or to perform any other official act or function, shall have power to administer oaths and affirmations, and take and hear testimony, concerning any matter or thing concerning any demand upon the treasury, or otherwise relating to their official duties. Every officer who shall approve, allow, or pay any demand on the treasury not authorized by law, or by a valid ordinance of the municipal council, passed in accordance with the same, or in case it is the act of a board, who shall, as a member thereof, vote for the same, shall be liable to the city, or city and county, individually, and on his official bond, for the amount of the demand so illegally approved, allowed, or paid. Every citizen shall have the right to inspect the books of the auditor, treasurer, secretary of the board of aldermen, and clerk of the house of assistant aldermen, at any time during business hours. Copies or extracts from said books, duly certified, shall be given by the officer having the same in custody, to any citizen demanding the same and paying fifteen cents per folio of one hundred words for such copies or extracts.

Payment of audited demands.

Sec. 96. Every lawful demand upon the treasury, duly audited as in this chapter required, shall in all cases be paid on presentation, and canceled, and the proper entry thereof be made, if there be sufficient money in the treasury belonging to the fund out of which it is payable; but

if there be not sufficient money belonging to said fund to pay such demand, then it shall be registered in a book to be kept by the treasurer for that purpose, showing its number, when presented, date, amount, name of the original holder, and on what account allowed, and out of what fund payable, and being so registered, shall be returned to the party presenting it, with an indorsement of the word "registered," dated and signed by the treasurer.

Investigation of non-payment of audited demands.

Sec. 97. Whenever any audited demand has been presented to the treasurer and not paid, and it be made known to the president of the board of aldermen, he shall proceed immediately to investigate the cause for such non-payment, and if it be ascertained that the demand has been illegally and fraudulently approved or allowed, he shall cause the officer guilty of such illegal and fraudulent approval or allowance to be suspended and proceeded against for misconduct in office. If he ascertains that the demand has been duly audited, and that the treasurer has funds applicable to the payment thereof, which, without reasonable grounds for doubt as to the legality of such payment, he refuses to apply thereto, he shall proceed against him as a defaulter. If it be ascertained that the demand was not paid for want of funds, then he shall cause the tax collector, or other officer or person who ought to have collected or to have paid the money into the treasury, if they have been grossly negligent therein, to be proceeded against according to law and without delay.

Receipts for money by all officers.

Sec. 98. The treasurer, for all money received into the treasury, and all other officers of such city, or city and county, receiving money from the treasury of disbursement, shall give receipt for all moneys by them received, which receipt shall be presented to and countersigned by the auditor. The auditor, before countersigning any such receipt, shall number it and make an entry in a book of record to be kept in his office for that purpose, of the number, date, and amount, by whom and in whose favor given, and on what account.



No such receipt shall be valid as evidence in favor of the person or officer receiving it till presented to the auditor and countersigned as aforesaid; and any person or officer using or offering to use such receipt as evidence in favor of such person or officer, of the payment specified in it, without being first countersigned as above required, shall forfeit to such city, or city and county, double the amount of money specified in such receipt.

Remedy against auditor and other officers.

Sec. 99. If any person feel aggrieved by the decision of the auditor, or other proper officer or officers of such city, or city and county, except the board of education, in the rejection of or refusal to approve or allow any demand upon the treasury presented by such person, he may appeal and have the same passed upon by the municipal council, whose decision thereon shall be final; and if the said council shall approve and allow the demand, it shall afterwards be presented to the auditor, and entered in the proper book, in like manner as other demands allowed by him, and an indorsement must be made of its having been so entered before it can be paid; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any court of competent jurisdiction; provided, that from the decision of the president of the board of education and superintendent of schools, refusing or not agreeing to allow any demand payable out of the school fund, the appeal shall be taken to the board of education, whose decision shall be final; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any court of competent jurisdiction.

Opinion of city attorney.

Sec. 100. In all cases of such appeals to the municipal council, or the board of education, if, in the opinion of said council or of said board deemed expedient, the opinion of the city, or city and county, attorney shall be required, and obtained in writing, read, and filed; and upon such appeal, and in all other cases upon the approval or allowance of any demand upon the treasury or school fund, the vote shall be taken by "yeas" and "nays," and entered upon the records.

### Examination of books of treasurer and other officers.

Sec. 101. The president of the board of aldermen, in conjunction with the auditor and the chairman of the house of delegates of such city, or city and county, shall, every month, examine the books of the treasurer and other officers of such city, or city and county, having the collection and custody of the public funds, and shall be permitted, and it shall be their duty, to see and count over all the moneys remaining in the hands of such treasurer, or other officer, after having previously ascertained the amount which should be remaining in his hands. The finance committee shall also, twice a year, viz., on the first Monday in July and January, make the same examination of books, count said money, and report the result to the municipal council. If they ascertain clearly that such treasurer, or other officer, is a defaulter, they shall forthwith take possession of all funds, books, and papers belonging to such office, and the president of the board of aldermen shall appoint a person to fill the same until the said defaulting officer can be proceeded against according to law, which shall be done without delay, and until the said officer shall be restored to duty or office, or until his successor shall be appointed, or elected and qualified. The person so appointed shall give bonds and take the oath of office in the same manner as was required of the officer whose place he is appointed to fill. If the treasurer, or other officer so discharged as defaulter, be acquitted thereof, he shall resume his duties.

### One-twelfth law.

Sec. 102. Neither the municipal council, the board of education, nor any other board, commission, committee, officer, or person, shall have power to authorize, allow, contract for, pay, or render payable, and they are prohibited from authorizing, allowing, contracting, paying, or rendering payable, in present or future, in any one month, any demand or demands, liability or liabilities, against the treasury of such city, city and county, or the funds thereof, which shall, in the aggregate, exceed one twelfth part of the amount allowed by laws existing at the time of such con-

tract, authorization, allowance, payment or liability, to be expended within the fiscal year of which said month is a part; provided, however, that if, at the beginning of any month, any money remains unexpended in any of the funds set apart for maintaining the municipal government of such city, or city and county, and which might lawfully have been expended the preceding month, such unexpended sum or sums may be carried forward and expended by order of the municipal council, for the same purpose allowed by law in any succeeding month of the fiscal year. All contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made, in violation of this section, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such city, or city and county; and all officers of such city, or city and county, are hereby charged with notice of the condition of the treasury of such city, or city and county, and the extent of the claims against the same.

Duties of certain officers under the one-twelfth law.

Sec. 103. It is the duty of the superintendent of streets to keep an exact account of all street and sewer work upon accepted streets, and it shall be the duty of the building committee to keep an account of all work done on all public buildings and every other expenditure chargeable against the treasury in any of the departments under charge of said building committee and officers; and it is the duty of the superintendent of schools, the president of the board of education, the president of the board of fire commissioners, the president of the board of election directors, the president of the board of police commissioners, and every other officer and board having the power to contract any demand, or to aid in the contraction of any demand, against said treasury, to keep an exact and full account of all purchases, expenditures, and liabilities made or contracted in their respective departments; and for the purpose of making such accounts, said officers shall have power to demand and receive from every other city, or city and county, officer, detailed statements in writing,

when necessary to keep said accounts, and it is hereby made the duty of any and all officers to furnish said statements when demanded; such accounts shall be constantly posted up to date, so that it can be known exactly at any time what part or proportion of the monthly sum allowed by this chapter and existing laws has been contracted for, paid, or rendered liable to pay in the present and future. Such accounts shall show every contract for street and sewer work, public buildings, purchases of material, or supplies, or other expenditure, in whatever department it is made, from its incipency through the various stages of progress to completion, with the amount to be paid for the same so far as the same is capable of exact estimation, and when not, then a sworn estimate by the proper officer of the probable cost. Whenever, at any time, the contracts performed or unperformed, claims due or to become due, exceed said one twelfth part of the amount that can be lawfully expended out of any fund in the current fiscal year, the president of the board, head of department, or other officer or board having the supervision of such expenditure, shall give notice thereof in writing, as to his or their department, to the auditor and the treasurer, and to the municipal council a notice in writing, served upon the clerks of each branch thereof, and shall post the same in his or their office, from which time no further contracts shall be made or expenditures authorized or allowed, until such time has elapsed as will allow of further proceedings consistent with the provisions of the law.

Penalty for non-compliance with law.

Sec. 104. Any failure or neglect on the part of any of said officers or boards, or members of boards, to comply with any of the provisions of the preceding sections, shall render such officer, and each member of such board consenting thereto, liable personally and upon his official bond to any contractor or other person suffering damage by said failure or neglect; but such contractor or person damaged shall have no remedy against such city, or city and county, and the said officers or members of boards authorizing or aiding to authorize, auditing, or allowing any claim or demand

upon or against said treasury, or any fund thereof, in contravention thereof, shall be liable in person and on his official bond to the contractor or person damaged, to the extent of his loss. The treasurer paying any claim authorized, allowed, or audited in contravention of the provisions thereof shall be liable on his official bond to refund the same to such city, or city and county, and it shall be the duty of the city, or city and county, attorney to sue for the same, if necessary. Exception to operation of one-twelfth law.

Sec. 105. In case of any great public calamity or danger, such as earthquakes, conflagrations, pestilence, invasion, insurrection, or other great and unforeseen emergency, the provisions of the three preceding sections may be temporarily suspended, as to any lawful contract, authorization, or expenditure necessary to avert, mitigate, or relieve such evil; provided, that such expenditure, contract, or authorization shall be passed by the unanimous vote of all members elected or appointed to each house of the municipal council, and entered in the journals of each house, and the character and fact of such emergency must be recited in the ordinance authorizing such action; and such ordinance must be approved by the mayor, auditor, and treasurer of such city, or city and county.

Printing and advertising must be let to lowest bidder.

Sec. 106. All city, or city and county, official printing and advertising, for all departments thereof, excepting that of the sheriff's office, shall be let by the municipal council, during the month of January of each year, to the lowest responsible bidder, printing, publishing, and proposing to advertise in a newspaper of general circulation in such city, or city and county, and that has been in existence at the time of the letting of said contract at least three years; and provided, that any such newspaper may bid for the whole or any part of the advertising. The bids shall be opened by the board of aldermen, and all bidders may be present thereat. No bid shall be considered in which there shall be any erasure or interlineation. All such contracts, when awarded, shall be enter-

ed into and bonds taken by the clerk of the board of aldermen, in such sum and containing such conditions as the board of aldermen shall provide. Contracts, how made.

Sec. 107. All contracts relating to city, or city and county, affairs shall be in writing, signed and executed in the name of the city, or city and county, by the officer authorized to make the same; and in cases not otherwise directed by the law, such contracts shall be made and entered into by the mayor. All contracts shall be countersigned by the auditor, and registered, by number and dates, in his office, in a book to be kept by him for that purpose. In all cases of letting contracts to bidders, when for any reason a contract fails of completion, new bids shall be invited, opened, and awarded, as provided in this chapter in the first instance, until a sufficient contract is executed. In all cases when the board of aldermen have reason to think the prices too high, or that bidders have combined together to prevent genuine bidding, or for any reason that the public interests will be subserved, it may, in its discretion, reject any and all bids, and cause the same to be readvertised. The provisions of this act, as to bids and contracts, shall be enforced by the municipal council by appropriate ordinances as to all bids, proposals, and contracts with such city, or city and county, or any department thereof.

#### Article IV.—Executive Department.

Qualifications and duties of mayor.

Sec. 118. The mayor shall be the chief executive officer; shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States and of this state, and a resident in such city, or city and county, for three years. It shall be his duty vigilantly to observe the official conduct of all public officers of such city, or city and county, and to take note of the fidelity and exactitude, or the want thereof, with which they execute their duties and obligations, especially in the collection, custody, admin-



istration, and disbursement of the public funds and property, for which purpose the books, records, and official papers of all boards, officers, and magistrates of such city, or city and county, shall at all times be open to his inspection. He shall take especial care to see that the books and records of all such officers are kept in legal and proper form; and any official defalcation, or willful neglect of duty, or official misconduct, which he may have discovered, or which shall have been reported to him, shall at the earliest opportunity be laid before the municipal council, and before the grand jury, in order that the public interests shall be protected and the officer in default be proceeded against according to law. He shall, from time to time, give the municipal council information relative to the state of such city, or city and county, and shall recommend to their consideration such measures as he may deem expedient in the interests of the city. He shall take care that the laws of the state and the ordinances of the municipal council are enforced.

Mayor pro tempore.

Sec. 119. Whenever and so long as the mayor, from any cause, is unable to perform his official duties, the board of aldermen shall designate one of their number as mayor pro tempore, who shall perform the same.

Special sessions of council.

Sec. 120. The mayor may, by due notice, call special sessions of the municipal council, and shall specially state to them, when assembled, the objects for which they have been specially convened, and their actions shall be confined to such objects.

Duties of auditor.

Sec. 121. The auditor shall be the head of the finance department of such city, or city and county, and as such required to be constantly acquainted with the exact condition of the treasury, and every lawful demand upon it. He shall keep a public office, and give his personal attendance there daily during the office hours fixed in this chapter, and shall not follow or engage in any other occupation or calling while he holds said office. If he absents himself from his office during such office hours, except on indispensable official

business or urgent necessity, he shall lose his salary for the day; and it shall be a part of his official duty to keep account of the times and occasions when he shall be so absent from duty. He shall be the general accountant of such city, or city and county, and as such it shall be his duty to receive and preserve in his office all accounts, books, vouchers, documents, and papers relating to the accounts or contracts of such city, or city and county; its debts, revenues, and other fiscal affairs, and to adopt a proper mode and manner of double-entry book-keeping, and keep the accounts of such city, or city and county, general and special, in a systematic and orderly manner. He shall state and render all accounts filed or kept in his office between the city and other persons or body corporate, except when otherwise provided by law or ordinance. He shall have power to administer oaths, and shall require settlements of accounts to be verified by affidavit whenever he thinks proper. He shall be responsible for all acts of his employees.

#### Duties of treasurer.

Sec. 122. The treasurer of such city, or city and county, shall receive and safely keep in a secure fire-proof vault, to be prepared for that purpose, all moneys belonging to or which shall be paid into the treasury, and shall not loan, use, or deposit the same, or any part thereof, to or with any banker or other person, nor pay out any part of said moneys except on demand authorized by this chapter, and after they have been duly audited. He shall keep the key of said vault, and not suffer the same to be opened except in his presence. At the closing up of the same each day he shall take an account and enter in the proper book the exact amount of money on hand, and at the end of every month he shall make and publish a statement of all receipts into and payments from the treasury, and on what account. If he violates any of the provisions of this section he shall be considered a defaulter, and shall be deemed guilty of a misdemeanor in office, and be liable to removal, and shall be proceeded against accordingly. If he loan or deposit said moneys, or any part thereof, contrary to the provisions of this section, or apply the

same to his own use, or the use of any other person, in any manner whatsoever, or suffer the same to go out of his personal custody, except in payment of audited demands upon the treasury, he shall be deemed guilty of a felony, and, on conviction thereof, shall suffer imprisonment in the state prison for a period not less than three months nor more than ten years.

#### Duties of treasurer.

Sec. 123. The treasurer shall keep the money belonging to each fund separate and distinct, and shall in no case pay demands chargeable against one fund out of moneys belonging to another, except as otherwise provided in this chapter, without an express ordinance of the municipal council, which can only be made during or after the end of the third quarter of the fiscal year, by a vote of two-thirds of each house. The said treasurer shall give his personal attendance at his public office during the office hours fixed by this chapter, and if he be absent himself therefrom, except on account of sickness or urgent necessity during such office hours, he shall lose his salary for the entire day on which he was absent.

#### Duties of county clerk.

Sec. 124. The county clerk of such city and county shall take charge of and safely keep, or dispose of according to law, all books, papers, and records which are or may be filed or deposited in his office, and of all the courts of which he is clerk; and he shall not allow any paper, files, or records to leave his custody, except when required by the judges of the courts, to be used by them or any of them.

Original papers not to be produced in court except on subpoena.

Sec. 125. No judge or officer of any court shall make any order for the delivery by the county clerk of such city and county, of any paper, files, or records in his custody, except bills of exceptions and statements on motion for a new trial; nor shall the courts, or judges thereof, have any power to make orders for the delivery of any certificate of incorporation, bonds, or other papers filed with the said county clerk. Whenever any of said papers are required for evidence in any of the courts within such city and county, the county

clerk, or his deputies, shall produce the same under subpoena or order of the court, or furnish certified copies of the same on application, on payment to said clerk for said copy at the rate of ten cents per folio for each hundred words, which shall be paid into the city and county treasury by him.

County clerk not to attend as witness outside of city, unless his expenses are paid.

Sec. 126. Neither the county clerk nor any of his deputies shall be required to attend as witnesses, in their official capacity, outside of such city and county, except in criminal cases, unless his expenses be paid at the rate of ten cents per mile to and from the place where he may be required, and three dollars a day for each day's attendance. A sufficient number of deputies shall be assigned by him as courtroom clerks to the various courts of which he is the official clerk, while such courts are in session, and to do duty in the office when such courts are not in session. He shall transfer such deputies to duty in court, or at his office, as the exigency of the service may require, so as to efficiently perform the work in the most economical manner possible.

Fee for law library.

Sec. 127. On the commencement in or removal to the superior court of such city and county of any civil action or proceeding, he shall collect from the plaintiff, or party instituting such proceeding or filing the first papers therein, the sum of one dollar, and pay over the same at the end of each month to the treasurer of the law library provided for in this chapter; and the payment of the sum of one dollar shall be a condition precedent to the commencement of such action or proceeding, for which sum so required to be collected he and his sureties shall be responsible on his official bond.

Tax collector to be charged with moneys, etc., coming into his hands.

Sec. 128. The tax collector, upon the final settlement to be made by him as such tax collector, according to the requirements of the law, shall be charged with, and shall pay into the hands of the treasurer, the full amount of all taxes paid to him under protest or otherwise, or by him collected and

not previously paid over, without any deduction of commissions, fees, or otherwise; he shall also be charged with and be deemed debtor to the treasury for the full amount of all taxes due upon the delinquent list delivered to him for collection, unless it be made to appear that it was out of his power to collect the same by levy and sale of any property liable to be seized and sold therefor. If the impossibility to collect any portion of such delinquent taxes have resulted from such negligence or defects in such assessment caused by the willful misconduct of the assessor, then the assessor whose duty it was to make the assessment shall be liable and be deemed debtor to the treasury for the amount remaining uncollected for that cause.

Election of assessor and his duties.

Sec. 129. There shall be elected by the qualified voters of such city, or city and county, at the general state election, an assessor, who shall take office on the first Monday after the first day of January next following his election, and hold for the term of four years, and until his successor is elected and qualified. It shall be his duty to assess all taxable property within such city, or city and county.

Duty of sheriff.

Sec. 130. The sheriff shall attend in person, or by deputy, all the courts in and for such city and county, except the police courts. He shall obey the lawful orders and directions of such courts, and in all other respects conform to the laws regulating sheriffs in this state.

Duties of recorder.

Sec. 131. The recorder of such city and county shall have the custody of all books, records, maps, and papers deposited in his office. He, or his chief deputy, when any papers are presented for registration, or to be copied, shall write on the margin of each paper so presented the number of folios paid for, and shall, in his monthly return to the treasurer, certify under oath the number of folios copied or registered by each deputy or copyist appointed by him; and such certificate of the recorder or his chief deputy shall be conclusive evidence to authorize the auditor to audit such certified accounts of such deputies or copyists

monthly. He shall appoint as many copyists as he shall deem necessary to the proper discharge of the duties of his office, who shall be paid at the rate of twelve cents per folio of one hundred words for all matters registered or copied by them respectively.

Duties of district attorney.

Sec. 132. The district attorney is the public prosecutor, and shall be an attorney of the supreme court, and shall attend the superior court of this state, in and for such city and county, and such other courts as may be hereafter established in and for the same, and conduct therein, on behalf of the people, all prosecutions for public offenses. He shall perform such other duties as are prescribed by law.

Duties of city and county attorney.

Sec. 133. The city, or city and county, attorney shall be an attorney of the supreme court, and shall prosecute and defend all suits and actions at law and in equity, and conduct all legal proceedings, in the courts and elsewhere, necessary to preserve and protect such city's, or city and county's, rights, whether such suits or proceedings be conducted in the name of such city, or city and county, or in the name of others. He shall give legal advice to the city government, and all the officers, boards, and departments thereof, when required so to do, and perform such other duties as such attorney as the municipal council shall from time to time prescribe. He shall keep in his office well-bound books of registry, in which shall be entered and kept a register of all actions, suits, and proceedings in which such city, or city and county, is interested. Each outgoing city, or city and county, attorney shall deliver such books and all other records, law reports, quarterly reports from municipal boards and officers, documents, statutes, papers, furniture, and property, in his possession, to his successor in office, who shall give him duplicate receipts therefor, one to be filed in the office of the auditor, and one to be retained by the outgoing city, or city and county, attorney.

Public administrator.

Sec. 134. The public administrator of such city,



or city and county, shall be subject to the orders of the superior court in and for such city, or city and county, and shall perform all the duties prescribed by law.

#### Duties of coroner.

Sec. 135. The coroner of such city, or: city and county, in addition to the duties imposed by law upon every coroner, shall keep a record of all inquests held by him, with a copy of all testimony and the inquisition of the jurors in full; and in case of loss of the original records, the same shall be admissible in evidence with like effect as the original would have been. He may appoint such deputies, and a messenger or messengers, as are allowed in this act, or as may be hereafter allowed by the municipal council of such city, or city and county. He shall receive no fees for any services rendered by him.

#### Duties of superintendent of streets.

Sec. 136. The superintendent of streets shall keep a public office, in some convenient place, to be designated by the municipal council. His office shall be kept open as in this chapter provided. He shall not, during his continuance in office, follow any other profession or calling, but shall be required to devote himself exclusively to the duties of his said office. He shall have under his special charge the construction, reconstruction, repairing, and cleansing of all public sewers, man-holes, sinks, drains, cesspools, and of the public streets, highways, alleys, places, and squares, excepting the parks. It shall be his duty to see that the laws, orders, and regulations relative to the public streets and highways, alleys, places, and squares are carried into execution, and that the penalties therefor are rigidly enforced, as may be prescribed by the municipal council. He shall keep himself informed of the condition of all public streets, highways, alleys, places, and squares; and should he fail to see that the laws, ordinances, and regulations relating to the public streets, highways, alleys, places, and squares are carried into execution, after notice from any citizen of a violation thereof, such superintendent and his sureties shall be liable upon his official bond to any person injured in person or property by such official neglect.

**Duties of surveyor.**

Sec. 137. The city, or city and county, surveyor shall be engineer-in-chief of such city, or city and county, and of the sewerage system; shall make all necessary plans, surveys, maps, and drawings, and other necessary things, and keep the same in his office, and all such maps, plans, machinery, and drawings shall be the property of such city, or city and county, and remain in the office, and be transferred by the outgoing to the incoming officer. He shall do all necessary surveying and engineering for the streets, alleys, highways, and squares, at the request of the municipal council, or of any committee appointed by either branch of the same, and all or any other surveying and engineering work that such city, or city and county, may require, and of the public parks, at the request of the park commissioners.

**Appointment of collector of licenses and his duties.**

Sec. 138. Within twenty days after their first meeting, the municipal council of such city, or city and county, shall appoint a suitable person as collector of licenses of such city, or city and county; who shall hold office for two years from and after his appointment, and until his successor shall be appointed and qualified. In case of a vacancy occurring by death or otherwise in the office of the collector of licenses of such city, or city and county, holding his office under the provisions of this chapter, the same shall be filled for the remainder of the unexpired term by appointment of the board of aldermen; and in case of the inability of said collector of licenses to act, his place shall, in the same manner, be temporarily filled until such disability is removed. The collector of licenses and his deputies are hereby authorized, empowered, and required to collect all the municipal licenses now required to be collected, or which shall hereafter be required to be collected, by them, or either of them; and it shall be the duty of said collector of licenses, and his deputies, or assistant collectors, to attend to the collection of licenses, and examine all places of business and persons liable to pay licenses, and to see that licenses are taken out and paid for. They shall each have and exercise, in the performance of

their official duties, the same powers as police officers in serving process or summons, and in making arrests; also shall each have and exercise the power to administer such oaths and affirmations as shall be necessary in the discharge and exercise of their official duties; and they, and each of them, are hereby empowered to enter any place of business for which a license by law is provided and required, free of charge, at their pleasure, and to demand the exhibition of any license for the current time from any person, or firm, or corporation engaged or employed in the transaction of any business for which a license is by law rendered necessary; and if such person, or firm, or corporation, or either of them, shall be unable, or refuse, or neglect, or fail, to then and there exhibit such license, he, she, or they, as the case may be, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished accordingly.

#### License moneys.

Sec. 139. The collector of licenses shall daily pay to the treasurer of such city, or city and county, all moneys so collected for licenses sold, or by him received as fees; and shall, under oath, at least once in each calendar month, and oftener when required so to do by the auditor, make to the auditor a report of all such licenses sold and on hand, and of all amounts so paid to the city, or city and county, treasurer; shall at such time exhibit to the auditor all unsold licenses in his hands, and the treasurer's receipts for all moneys paid into the treasury; and all licenses so signed by the license collector, or deputy license collector, or either of them, shall be as valid as if signed by the city, or city and county, treasurer. All fees so paid to him shall be placed to the credit of the proper fund by the treasurer.

#### Department of police.

Sec. 140. The department of police of such city, or city and county, shall consist of:

#### Police commissioners, how appointed.

1. A board of police commissioners of such city, or city and county, consisting of five members, each of whom shall be a qualified voter, at least thirty years of age, and shall have been a citizen of the United States and of this state, and a resi-

dent of such city, or city and county, for five years next preceding his appointment, four of whom shall be appointed by the governor and chief justice of the supreme court of the state of California, within thirty days after the organization of such city, or city and county, under this act; and who shall hold office for the term of four years from and after the first Monday next succeeding the date of their appointment, and until their successors are appointed and qualified; and in the month next preceding the expiration of the said term, and every four years thereafter, the said governor and chief justice of the supreme court shall appoint their successors, who shall hold office for the term of four years from and after the first Monday next succeeding the date of their appointment; but in making such appointments, the said governor and chief justice shall elect two qualified persons from each of the two dominant national political parties. Vacancies that may occur in the office of any of the members so appointed shall be filled by appointment by said governor and chief justice, of some suitable person of the same political party as that to which the last incumbent belonged, and for the remainder of the vacant term only. The four members appointed, as hereinbefore provided, shall meet in such city, or city and county, on the first Monday next succeeding the date of their appointment, and shall forthwith organize by electing one of their number president, and shall appoint the other member of said board, who shall be the chief of police of such city, or city and county. Every member of said board shall, before he enters upon the duties of his office, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of California; that I will faithfully discharge the duties of police commissioner according to the best of my ability; and that in the discharge of my duties I will make no appointment to or removal from the police force for political or partisan reasons; and that I will, to the best of my ability, discharge the duties of said office impartially and uninfluenced by political considerations, or any consideration other than that

of the public good." Every member of said board who shall absent himself from such city, or city and county, for the continuous period of sixty days, shall, by force thereof, cease to be a police commissioner, and his office shall become vacant. No member of said board shall be eligible to any other office during his incumbency of the office of police commissioner. No member of said board shall, during his term of office, be a member of any convention, the purpose of which is to nominate candidates for office, nor act as a judge, inspector, clerk, or officer of any election, or primary election, or take part in any election except to deposit his vote; nor shall any member of said board, directly or indirectly, influence, or attempt to influence or control, the political action of any member of the police force of such city, or city and county, or any employee of said department; nor shall any member of said board collect, or suffer to be collected, from any member or employee of said department, any assessment or contribution for political purposes. A violation of any of the provisions of this section shall be a misdemeanor, and shall be cause for the immediate removal from office of the person guilty of such violation. The said board shall hold sessions at least once a month in the office of chief of police, or in such other convenient place as the municipal council of such city, or city and county, shall designate, or, in case of emergency, at such place as it shall select, and the clerk of the chief of police, hereinafter provided for, shall act as clerk of said board. Every member of said board, and the clerk of said board, shall have power to administer oaths in all matters pertinent to the business of their respective offices, and in all investigations pending before said board, or any member thereof. The said board shall keep a record of its proceedings. The said board shall have power:

Powers of board.

1. To appoint, suspend, or remove any person from the police force of such city, or city and county; provided, however, that the chief of police shall only be removable in the manner provided by law for the removal of other municipal officers.

Prescribe rules.

2. To prescribe all needful rules and regulations for the control, government, and discipline of said police force, and from time to time to alter or repeal the same, and prescribe penalties for the violation of any of them.

Determine complaints.

3. To hear and summarily determine all complaints of misconduct, inefficiency, or other charge against any member of said police force, and to take such action thereon as shall be conducive to the maintenance of the discipline and efficiency of the same.

Grant permits.

4. To grant permits to all persons desiring to engage in the retail liquor business in such city, or city and county, and to revoke any such permit whenever it shall be made to appear to said board that the retail liquor business of the person to whom such permit was given is conducted in a disorderly or improper manner, or whenever it shall be made to appear that the person to whom such permit was granted has, after the grant of such permit, been convicted in the police or other court of such city, or city and county, of disorderly or improper conduct, or of the commission of any criminal offense upon the premises whereon such retail liquor business is conducted; provided, however, that whenever said board refuses to grant such permit, or proposes to revoke such permit, the person who is refused such permit, or whose permit is proposed to be revoked, shall be entitled to be heard before said board in person or through counsel, and to have free of charge all reasonable facilities for the full, fair, and impartial hearing on the merits of his application or opposition. In such permit shall be distinctly stated and described the name of the person to whom the same is given, and the premises on which such retail business is proposed to be carried on.

Appoint special officers.

5. Upon the petition of any person, firm, or corporation, to appoint a special officer to do special service to be paid for by such person, firm, or corporation, specifying the boundary or locality at



or within which he is to act as such special officer, which boundary or locality shall be described in his warrant of appointment; provided, that no special officer, shall be appointed to act in any part of such city, or city and county, commonly known as the Chinese quarter; and provided further, that all special officers shall report daily to the chief of police, and be subject to his orders in case of emergency; and in no event shall such officers be paid by such city, or city and county.

#### Badge.

6. To prescribe the badge of office and uniform to be worn by all members of the police force, and the badge of office to be worn by all special officers.

#### Contingent expenses.

7. To allow and order paid out of the police contingent fund, for contingent expenses, any and all orders signed by the chief of police; provided, that the aggregate of such orders shall not exceed the sum of seven thousand two hundred dollars a year, which sum shall be set apart annually in the treasury of said city and county for this purpose.

#### Appoint substitutes.

8. To appoint substitutes, not to exceed four per cent of the police force, to serve under such regulations, and subject to such restrictions, as it may prescribe, and without pay from such city, or city and county.

#### Issue subpoenas, etc.

9. To issue subpoenas, tested in the name of its president, and to enforce obedience thereto, and punish disobedience thereof, in the same manner and to the like extent as the justices' court of such city, or city and county; and to exercise the same powers as the said justices' court in preserving decorum in all open sessions of said board, and to punish any contempt committed thereat.

#### Designate prisons.

10. To designate the prisons to be used for the reception of all persons arrested, convicted, or sentenced for public offenses in cases not provided for by law or by ordinance; to establish stations and station houses, or substations and substation-houses, at its discretion, for the accommodation

thereat of members of the police force, and as places of temporary detention for persons arrested.

Discretionary powers.

11. In its discretion, on conviction of a member of the force of any legal offense, or neglect of duty, or violation of the rules of the board, or neglect of or disobedience of orders, or incapacity, or absence without leave, or any conduct injurious to the public peace or welfare, or other breach of discipline, or immoral conduct, or any conduct unbecoming an officer, to punish the offending party by reprimand, forfeiting and withholding pay for a special time, suspension, or dismissal from the force; all such fines shall be immediately paid into the treasury to the credit of the police life and health insurance fund.

Warrant of appointment.

12. To issue to every member of the police force a proper warrant of appointment, signed by the president and countersigned by the clerk of the board, which warrant shall contain the date of his appointment and his rank.

Supplies.

13. To make a requisition on the municipal council of such city, or city and county, for all supplies or necessities that may be required in the administration of the department; provided, that the aggregate amount of the same, exclusive of salaries, shall not, in any one fiscal year, exceed the sum of five thousand dollars.

Report, when made.

14. To annually, on or before the first day of August, report to the municipal council an estimate of the amount of money that will be required to pay all salaries of the department, and of the amount of money that will be required for the administration and support of the department in such year, specifying in detail the purposes and items for which the same will be required, with the estimated cost thereof, respectively.

Sale of property.

15. To provide for the custody, care, restitution, sale, time, place, and manner of sale of all property that may come into the possession of the property clerk hereinafter provided for.

Control police life insurance fund.

16. To control, care for, and manage the police life and health insurance fund hereinafter mentioned, which fund shall consist of the moneys retained from the monthly salaries of the members of the police force, fines collected from members of said force, and of such other moneys as may be contributed thereto by law, or ordinance, or by gift, devise, or bequest, and of all moneys to the credit of said fund at the time said board shall take office, and to invest the moneys of said fund in such of the following securities as shall seem most safe and profitable, viz., the bonds of such city, or city and county, the bonds of the state of California, and the bonds of the United States of America. The moneys and securities shall be held by the treasurer of such city, or city and county, who shall have no power to deposit, pledge, or in any other way part with the same, except on the order of said board.

Payment to heirs out of fund.

17. To order paid, upon the death of any member of the police force, out of the police life and health insurance fund, to the heirs of such member, the sum of one thousand dollars.

Repayment to infirm officers.

18. To order paid, out of the police life and health insurance fund, to any police officer who shall resign by reason of bad health or bodily infirmity, the amount of the principal sum which such officer shall have contributed thereto.

Repayment to incompetent officers.

19. To order paid, out of the police life and health insurance fund, to any officer dismissed for mere incompetency, not coupled with any offense against the laws of this state, an amount not exceeding one-half of the principal which such officer may have contributed thereto; provided, that any officer dismissed for gross neglect or violation of duty, or upon conviction of any misdemeanor or felony, shall forfeit all claim upon said fund.

Registration of demands.

20. In case said police life and health insurance fund shall not be sufficient to pay the demands on it, to cause such demands to be registered, and to be paid in their order out of the fund as received.

for incidental expenses as in his judgment shall be for the best interest of such city, or city and county; provided, that the aggregate of all such sums shall not, in any one fiscal year, exceed the sum of seven thousand two hundred dollars; but all sums so disbursed or paid shall be subject to the approval of the said board. He may, for good cause, grant leave of absence for not more than thirty days to any member of the police force; but officers absent from the city within or without the state on official business shall not be deemed to be absentees. As chief of police, he shall hold office for the term of four years from his appointment, and shall receive a salary of four thousand dollars per annum, payable monthly, at the end of each and every month.

Captains of police, how appointed.

3. SIX captains of police, who shall be appointed by the board of police commissioners from the members of the police force, who shall be assigned to such duty, and who shall be subject to such rules and regulations, as the chief of police shall prescribe. They shall receive a salary of two hundred dollars per month each, payable monthly, at the end of each and every month.

Police officers, their qualifications, powers, and duties.

4. As many police officers, not exceeding five hundred, as the board of police commissioners may determine to be necessary, to be appointed by said board; but it shall be the duty of said board, on its first organization, to appoint as members of the police force the members of the police force, if any, then in service, unless such members be incompetent or incapable to serve. Every person applying for appointment to said police force, unless he be a member of the police force then existing in such city, or city and county, shall produce and file with the said board a certificate, signed by not less than twelve freeholders and qualified voters of the smallest political subdivision of such city, or city and county, stating that they have been personally and well acquainted with the applicant for one year or more next preceding the application, and that the applicant is of good repute for honesty and sobriety, and

they believe him to be, in all respects, competent and fit for the office. All such certificates shall be preserved in the office of said board, and shall not be returned to the applicant. Every appointee to said police force must be a citizen of the United States and of this state, able to read and write the English language, and a resident of such city or city and county, at least five years previous to his appointment, except such member of said police force as may be in service at the time of the organization of said board; every appointee shall not be less than twenty-five nor more than forty years of age, and not less than five feet and seven inches in height, and shall, after his nomination, and before his appointment pass a thorough examination by the surgeon of police, or by any physician appointed by said board, and be found on such examination to be sound in health, and to possess the physical qualifications required for recruits for the United States army. The police officers, in subjection to the rules and regulations of the said board, to the orders of the respective captains, and under the general direction of the chief of police, shall be prompt and vigilant in the detection of crime, the arrest of public offenders, the suppression of all riots, frays, duels, and disturbances of the public peace, the execution of process from the police court in causing the abatement of public nuisances, and the enforcement of the laws and regulations of the police. They shall, as soon as practicable, upon an arrest, under penalty of dismissal from the force, or of a fine of not more than one hundred dollars, or of both, at the discretion of the board, convey in person the offender before the nearest sitting magistrate. If the arrest is made during the hours that the magistrate does not regularly hold court, or if the magistrate is not holding court, such offender may be detained in a station-house until the next public sitting of the magistrate, and no longer, unless discharged on bail, according to law. No member of the police force shall be eligible to any other office while a member of such force, nor shall he take any part whatever in any convention held for the purposes of a political party; nor shall he be a member of any political club; nor shall he be al-

for incidental expenses as in his judgment shall be for the best interest of such city, or city and county: provided, that the aggregate of all such sums shall not, in any one fiscal year, exceed the sum of seven thousand two hundred dollars; but all sums so disbursed or paid shall be subject to the approval of the said board. He may, for good cause, grant leave of absence for not more than thirty days to any member of the police force; but officers absent from the city within or without the state on official business shall not be deemed to be absentees. As chief of police, he shall hold office for the term of four years from his appointment, and shall receive a salary of four thousand dollars per annum, payable monthly, at the end of each and every month.

Captains of police, how appointed.

3. Six captains of police, who shall be appointed by the board of police commissioners from the members of the police force, who shall be assigned to such duty, and who shall be subject to such rules and regulations, as the chief of police shall prescribe. They shall receive a salary of two hundred dollars per month each, payable monthly, at the end of each and every month.

Police officers, their qualifications, powers, and duties.

4. As many police officers, not exceeding five hundred, as the board of police commissioners may determine to be necessary, to be appointed by said board; but it shall be the duty of said board, on its first organization, to appoint as members of the police force the members of the police force, if any, then in service, unless such members be incompetent or incapable to serve. Every person applying for appointment to said police force, unless he be a member of the police force then existing in such city, or city and county, shall produce and file with the said board a certificate, signed by not less than twelve freeholders and qualified voters of the smallest political subdivision of such city, or city and county, stating that they have been personally and well acquainted with the applicant for one year or more next preceding the application, and that the applicant is of good repute for honesty and sobriety, and



they believe him to be, in all respects, competent and fit for the office. All such certificates shall be preserved in the office of said board, and shall not be returned to the applicant. Every appointee to said police force must be a citizen of the United States and of this state, able to read and write the English language, and a resident of such city or city and county, at least five years previous to his appointment, except such member of said police force as may be in service at the time of the organization of said board; every appointee shall not be less than twenty-five nor more than forty years of age, and not less than five feet and seven inches in height, and shall, after his nomination, and before his appointment pass a thorough examination by the surgeon of police, or by any physician appointed by said board, and be found on such examination to be sound in health, and to possess the physical qualifications required for recruits for the United States army. The police officers, in subjection to the rules and regulations of the said board, to the orders of the respective captains, and under the general direction of the chief of police, shall be prompt and vigilant in the detection of crime, the arrest of public offenders, the suppression of all riots, frays, duels, and disturbances of the public peace, the execution of process from the police court in causing the abatement of public nuisances, and the enforcement of the laws and regulations of the police. They shall, as soon as practicable, upon an arrest, under penalty of dismissal from the force, or of a fine of not more than one hundred dollars, or of both, at the discretion of the board, convey in person the offender before the nearest sitting magistrate. If the arrest is made during the hours that the magistrate does not regularly hold court, or if the magistrate is not holding court, such offender may be detained in a station-house until the next public sitting of the magistrate, and no longer, unless discharged on bail, according to law. No member of the police force shall be eligible to any other office while a member of such force, nor shall he take any part whatever in any convention held for the purposes of a political party; nor shall he be a member of any political club; nor shall he be al-

lowed to interfere with politics on the day of election, or at any time while employed on said force, except to cast his vote. No member of said police force while on duty shall enter into any liquor-saloon, bar-room, or place where liquors are retailed, except when necessary in the discharge of his duties, on penalty of reprimand, fine, suspension, or removal from office. No member of the police force shall devote his time to any other profession or calling, become bail for any person charged with any offense whatever, solicit counsel or attorneys for prisoners, receive any present or reward for official services rendered, or to be rendered, unless with the knowledge and approbation of a majority of said board; such approbation to be given in writing and certified by the clerk of said board. Police officers who shall be selected to act as sergeants of police, and police officers who shall be selected to act as detective police officers, shall each receive a salary of one hundred and twenty-five dollars per month, payable monthly, at the end of each and every month. The police officer who shall be selected to act as clerk to the chief of police, and the police officer who shall be selected to act as property clerk, shall each receive a salary of one hundred and fifty dollars per month, payable monthly, at the end of each and every month. All other police officers shall each receive a salary of one hundred and two dollars per month, payable monthly, at the end of each and every month; provided, that the treasurer of such city, or city and county, is hereby authorized to deduct and retain from the salary of each member of said police force two dollars from every month's salary, to be paid into the fund of the police life and health insurance fund herein mentioned.

Surgeon of police, and his duties.

5. A surgeon of police, whose duty it shall be to attend to all cases of accident or sickness at the several police stations, to attend all officers who may be taken sick or injured in the discharge of their duty, to examine all applicants for appointment on the police force, and to perform such other duties as the board of police commissioners may from time to time prescribe. He shall be appointed

by the said board, and shall hold office during its pleasure, but he shall not be removed without just cause. He shall receive a salary of two hundred dollars per month, payable monthly, at the end of each and every month.

Fire commissioners, how appointed and term of office.

Sec. 141. There shall be a board of fire commissioners of such city, or city and county, consisting of five persons, possessing the same qualifications of eligibility as are herein prescribed for the members of the board of aldermen, who shall be appointed by the mayor, with the advice of the board of aldermen, and shall hold office for the term of four years from and after the time of their appointment, and no more than three of whom shall belong to the same national political party; provided, that the fire commissioners now acting as such in such city, or city and county, shall continue to hold their respective offices until the expiration of the term for which they may have been respectively elected or appointed.

Powers and duties of fire commissioners.

Sec. 142. The said board of fire commissioners shall supervise and control said fire department, its officers, members, and employees, subject to the laws governing the same, and shall see that the officers, members, and employees thereof faithfully discharge their duties, and that the laws, orders, and regulations relating thereto are carried into operation and effect. They shall not, nor shall either of them, or the chief engineer, or assistant chief engineer, or assistant engineers, of said fire department, be interested in any contracts pertaining in any manner to said fire department, or the sale, furnishing of apparatus, or supplies for the same; and all contracts in violation of this section are declared void, and any of said persons violating the provisions of this section shall be deemed guilty of misdemeanor, and upon conviction, shall be punished accordingly. The municipal council of such city, or city and county, shall have power to contract and provide for all cisterns, hydrants, apparatus, horses, supplies, engine, hose and hook-and-ladder houses, and all alterations and repairs required; and said board of fire commissioners

shall supervise all contracts awarded and work done for the said fire department, and shall see that all contracts awarded and work done are faithfully performed. The said board of fire commissioners shall have power to prescribe the duties of the officers, members, and employees of said fire department, and to adopt rules and regulations for the management and discipline thereof; and a majority of them shall certify to the correctness of all claims and demands before the same shall be paid. And the municipal council is authorized and required to provide and furnish for the use of the board of fire commissioners a suitable room or rooms in some of the buildings of such city, or city and county, to serve as an office for their meetings and the transaction of business relating to said fire department, in which their clerk, janitor, and messenger shall be in attendance daily during office hours. The chief engineer, assistant chief engineer, and assistant engineers of said department shall also make it their headquarters daily during office hours, when not otherwise engaged in official duties. And the said municipal council shall furnish the chief engineer, and also the assistant chief engineer and assistant engineers hereinafter mentioned, with a horse and buggy, and shall provide for keeping the same.

Officers of fire department.

Sec. 143. The officers of the fire department of such city, or city and county, shall be:

1. Five fire commissioners, to be appointed as aforesaid;
2. One chief engineer;
3. One assistant chief engineer;
4. Four assistant engineers;
5. One superintendent of steam fire-engines.

Members and employees of fire department.

Sec. 144. The members and employees of said fire department shall be:

1. One assistant superintendent of steam fire-engines;
2. One clerk and storekeeper for the corporation yard;
3. One corporation yard drayman;
4. One night watchman of corporation yard;
5. Two hydrantmen;

6. One veterinary surgeon;
7. One foreman of each company;
8. One engineer for each steam fire-engine;
9. One substitute engineer and machinist;
10. One driver for each company;
11. One fireman for each steam-engine company;
12. One carpenter;
13. One tillerman for each hook-and-ladder company;
14. One steward for each hose company;
15. One janitor and messenger;
16. One clerk.

Paid members of department to give entire time to duties.

Sec. 145. All paid members of said fire department, except the veterinary surgeon, foreman, assistant foreman, company clerks, hosemen, hook-and-ladder-men, and stewards of volunteer companies shall give their undivided attention to their respective duties; but the foreman, assistant foreman, company clerks, hosemen, and hook-and-ladder men, and stewards of volunteer companies, shall perform such duties as may be prescribed from time to time by said board of fire commissioners and ordered to be executed by the chief engineer.

Certain officers, how appointed.

Sec. 146. The chief engineer, the assistant chief engineer, the superintendent of steam fire-engines, the assistant engineers, the clerk, and all members and employees of the fire department, shall be appointed by the fire commissioners, and retain their positions during good behavior; and it shall be the duty of such fire commissioners, on their first organization under this act, to appoint as members thereof the officers and members of any fire department which shall be in service in any such city, or city and county, at the time of its organization under this act. No officer, member, or employee of said fire department shall be removed for political reasons.

Fire department to consist of what.

Sec. 147. The fire department of such city, or city or county, shall consist of such engine, hook-and-ladder, and hose companies as shall be recom-



mended by the board of fire commissioners, and determined by the municipal council necessary to afford protection against fire; provided, that as an auxiliary thereto patent fire-extinguishers may also be purchased and employed, if, in the judgment of said board, deemed advisable; provided, that no hand-engine shall be purchased for the use of said department, but such as shall be in possession of such city, or city and county, prior to its organization under this act, may be used in such localities and under such regulations as the board of fire commissioners may prescribe. The companies of said department shall be organized as follows: Each steam fire-engine company shall consist of (1) one foreman, one (1) engineer, one (1) driver, one (1) fireman, and eight (8) hosemen; one (1) of whom shall act as assistant foreman, and one (1) as clerk. Each hook-and-ladder company shall consist of one (1) foreman, one (1) driver, one (1) tillerman, and twelve (12) hook-and-ladder men; one (1) of whom shall act as assistant foreman, and one (1) as clerk. Each hose company shall consist of one (1) foreman, one (1) driver, and one (1) steward, and six (6) hosemen; one (1) of whom shall act as assistant foreman, and one (1) as clerk.

**Duties of chief engineer.**

Sec. 148. The chief engineer shall be the executive officer of said fire department, and it shall be the duty (and that of the assistant chief engineer and assistant engineers) to see that the laws, orders, rules, and regulations concerning the same are carried into effect, and also to attend to such duties as fire wardens as may be required, and to see that all laws, orders, and regulations established in such city, or city and county, to secure protection against fire, are enforced. It shall also be the duty of the chief engineer to enforce the rules and regulations made from time to time to secure discipline in said fire department, and he shall have power to suspend any subordinate officer, member, or employee for a violation of the same, and shall forthwith report in writing, with his reasons therefor, to the board of fire commissioners for their action. He shall diligently observe the condition of the apparatus and workings of said department, and shall report in writ-



ing, at least once in each week, to said board of fire commissioners, upon the same, and make such recommendations and suggestions respecting it, and for securing its greater efficiency, as he may deem proper; and in the absence or inability of the chief engineer to act, the assistant chief engineer shall assume the duties of said office of chief engineer.

Clerk of board, his bond and duties.

Sec. 149. The person elected as clerk by said board of fire commissioners shall, before entering upon the discharge of his duties, execute a bond, with two or more sureties, in the penal sum of twelve thousand (\$12,000) dollars, for the faithful discharge of his duties, which bond shall be approved by said board of fire commissioners, and the mayor of such city, or city and county, and when so approved shall be filed in the office of the auditor. The amount of said bond may be increased from time to time, when directed by the board of fire commissioners, should it deem it necessary for the public good; said clerk shall attend daily, during office hours, at the office of the board of fire commissioners (which shall be the office of the chief engineer, assistant chief engineer, and assistant engineers); shall perform the duties of clerk to said board and chief engineer, and shall perform such other duties from time to time as said board may prescribe. The clerk and storekeeper for the corporation yard shall, before entering upon his duties, furnish a bond in the sum of ten thousand (\$10,000) dollars, to be approved in the same manner as the bond provided for in this section, to be given by the clerk of said board of fire commissioners, and filed with the auditor.

Property of department, how sold.

Sec. 150. The mayor of such city, or city and county, upon the recommendation of the board of fire commissioners, with the approval of the municipal council, is authorized to sell at private or public sale from time to time any or all of the engines, hose-carriages, engine-houses, lots on which such houses stand, or parts of lots (or to exchange any of said lots, when in their judgment demanded by the public good), or other property which shall not be required for the use of the department, and to

execute, acknowledge, and deliver good and sufficient deeds or bills of sale for the same, paying the proceeds of such sales into the county treasury, to the credit of the proper fund.

Appropriation for purchase of horses, supplies, etc.

Sec. 151. The municipal council of such city, or city and county, is hereby authorized and required to appropriate, allow, and order paid annually out of the general fund of such city, or city and county, the salaries hereinafter specified and allowed, and salaries at similar rates to the several officers and men of any additional companies created as aforesaid; and the municipal council is required to appropriate, allow, and order paid, out of the general fund, a sum not to exceed eighty thousand (\$80,000) dollars annually for running expenses, horse-feed, repairs to apparatus, and for the construction and erection of cisterns and hydrants, and for the erection and repair of buildings, and other expenses of the fire department. To appropriate a sum not to exceed thirty thousand (\$30,000) dollars for the purchase of horses and apparatus for the fire department.

Allowance to disabled member.

Sec. 152. Whenever a member of the paid fire department of such city, or city and county, shall become disabled by reason of injuries received at any fire, so as to be unable to perform his duties, the municipal council, upon the recommendation of the board of fire commissioners, is hereby authorized and empowered to allow said disabled man a sum not exceeding fifty (\$50) dollars per month for not to exceed three (3) months, payable out of the general fund of such city, or city and county, in the same manner and form as other payments are made out of said fund.

"Fireman's charitable fund."

Sec. 153. The municipal council shall provide, by ordinance, for the payment into a "fireman's charitable fund" of such city, or city and county, of all moneys received for licenses for the storage, manufacture, or sale of gunpowder, blasting-powder, gun-cotton, fire-works, nitro-glycerine, dynamite, or any explosive oils or compounds, or as a municipal tax upon the same; also all fines collected in the

police court for violations of fire ordinances. Said fund shall be under the direction and control of and subject to such regulations as may be prescribed by the board of fire commissioners.

Assistant foreman and clerk.

Sec. 154. The chief engineer shall have power to appoint one member of each company to act as assistant foreman; also, one member to act as clerk; said clerk to receive five (\$5) dollars per month extra pay.

Organization of board and time of meeting.

Sec. 155. The fire commissioners shall organize said board immediately upon their appointment, and on the first Monday after the first day of January of each and every year thereafter, by selecting one of their number as president, and they shall meet at least once in each month publicly at their office to transact the business of said fire department; and, in addition to the stated meetings, they shall meet twice in each month for the purpose of investigating charges against officers, members, and employees of said department for violating any of the rules and regulations thereof; and shall hold such intermediate sessions as they shall deem necessary to the proper administration of the fire department. No person shall be eligible to any position in said department who is not a citizen of the United States, or a resident of such city, or city and county, at least two years, nor under twenty-one (21) years of age at the time of his appointment.

Investigations, how conducted.

Sec. 156. In all investigations for violation of the rules and regulations of the fire department, the president of the board of fire commissioners shall have power to issue subpoenas, and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpoenas issued by him shall be in such form as he may prescribe, and shall be served by any police officer or by any peace-officer of such city, or city and county. Any person who refuses to attend or testify in obedience to such subpoenas shall be deemed guilty of contempt, and be punished by him as in cases of contempt in justices' court in civil cases.

Members, how dismissed.

Sec. 157. No officer, member, or employee of the fire department shall be dismissed unless for cause, nor until after a trial. The accused shall be furnished with a written copy of the charges against him at least five (5) days previous to the day of trial, and he shall have an opportunity to examine witnesses in his behalf, and all witnesses shall be examined under oath, and all trials shall be public.

Workshop at corporation yard.

Sec. 158. The municipal council of such city and county is hereby authorized and empowered to establish and maintain at the corporation yard a workshop for making repairs and improvements upon the apparatus of the fire department, and such workshop and such repairs and improvements to be under the supervision of the board of fire commissioners; and the municipal council shall allow and order paid, out of the proper fund, all the expenses of such workshops, repairs, and improvements.

Restrictions on members.

Sec. 159. No member of said board of fire commissioners shall, during his term of office, be a member of any party convention, the purpose of which is to nominate candidates for political office, nor shall the officers, members, or employees of said fire department take any part whatever in any partisan convention, held for the purposes of a political party; nor shall any member of the said board of fire commissioners, directly or indirectly, attempt to control or influence the action of any member of said fire department, or any employee thereof, in any primary or general election. No member of the fire department shall levy, collect, or pay any amount of money as an assessment or contribution for political purposes. Any violation of the foregoing provisions of this section shall be deemed a misdemeanor.

Salaries of officers of fire department.

Sec. 160. The salaries of the officers of the fire department shall be paid in monthly installments, and as follows:

1. The salary of the fire commissioners shall be one thousand two hundred dollars per annum;

2. The salary of the chief engineer shall be four thousand dollars per annum;

3. The salary of the assistant chief engineer shall be two thousand four hundred dollars per annum;

4. The salaries of the assistant engineers shall each be one thousand eight hundred dollars per annum;

5. The salary of the superintendent of steam fire engines shall be two thousand four hundred dollars per annum.

Salaries of employees of fire department.

Sec. 161. The salaries of the members and employees of the fire department shall be paid in monthly installments, and as follows:

1. The salary of assistant superintendent of steam fire-engines shall be one thousand six hundred and eighty dollars per annum;

2. The salary of the clerk and storekeeper for the corporation yard shall be one thousand five hundred dollars per annum;

3. The salary of the corporation-yard drayman shall be one thousand and eighty dollars per annum;

4. The salary of the night watchman for the corporation yard shall be nine hundred dollars per annum;

5. The salary of the two hydrantmen shall be one thousand and eighty dollars per annum each;

6. The salary of the veterinary surgeon shall be one thousand two hundred dollars per annum;

7. The salary of the foreman of each company shall be five hundred and forty dollars per annum;

8. The salary of the engineer for each steam fire-engine company shall be one thousand six hundred and eighty dollars per annum;

9. The salary of the substitute engineer and machinist shall be one thousand six hundred and eighty dollars per annum;

10. The salary of the driver for each company shall be one thousand and eighty dollars per annum;

11. The salary of the fireman for each steam fire company shall be one thousand and eighty dollars per annum;

12. The salary of the carpenter for said depart-



ment shall be one thousand two hundred dollars per annum;

13. The salary of the tillerman for each hook-and ladder-company shall be one thousand and eighty dollars per annum;

14. The salary of the steward for each hose company shall be nine hundred and sixty dollars per annum;

15. The salary of each hoseman and each hook-and-ladder man shall be four hundred and eighty dollars per annum;

16. The salary of the janitor and messenger shall be one thousand two hundred dollars per annum;

17. The salary of the clerk of the board of fire commissioners shall be one thousand eight hundred dollars per annum.

Fire-alarm and police telegraph.

Sec. 162. There shall be maintained and provided for by the municipal council in such city, or city and county, a fire-alarm and police telegraph for municipal use, and the superintendent thereof shall be appointed by the board of fire commissioners, to serve during its pleasure, except that he shall not be removed for political causes, reasons, or purposes. Said superintendent is authorized to appoint the following officers and employees: one chief operator, three operators, one repairer, two assistant repairers, and one batteryman. It shall be the duty of such board, on their first organization under this act, to appoint as officers and employees thereof the officers and employees of any fire-alarm and police telegraph which shall be in service in such city, or city and county, at the time of its organization under this act.

Salaries of officers of fire-alarm, etc.

Sec. 163. The salaries of the officers of said fire-alarm and police telegraph shall be paid in monthly installments, and as follows:

1. The salary of the superintendent shall be two thousand four hundred dollars per annum;

2. The salary of the chief operator shall be one thousand eight hundred dollars per annum;

3. The salary of each of the three operators herein provided for shall be one thousand five hundred dollars per annum;



4. The salary of the repairer shall be one thousand and two hundred dollars per annum;

5. The salary of each of the two assistant repairers herein provided for shall be one thousand and eighty dollars per annum;

6. The salary of the batteryman shall be nine hundred dollars per annum.

#### Appropriation.

Sec. 164. The municipal council shall appropriate such sum as may be necessary, not exceeding fifteen thousand dollars per annum, for the maintenance, repair, and extension of said telegraph, and to defray the cost of instruments and machinery therefor, and for such horses and vehicles as may be necessary for the use of said superintendent.

#### Board of health, how constituted.

Sec. 165. There shall be a board of health for such city, or city and county, which board shall consist of the mayor of the city and county, and five physicians in good standing, residing in such city, or city and county, who shall be appointed by the governor, and who shall hold office for the term of four years, and until their successors are appointed and qualified; and in case any vacancy shall at any time occur in said board by removal, or resignation, or otherwise, the same shall be filled by appointment by the governor.

#### Meetings.

Sec. 166. The mayor of such city, or city and county, shall be ex-officio president of the board of health, and in his absence, at any meeting, the board may elect a chairman, who shall, for the time, be clothed with all the power of the president. Said board shall hold a regular meeting at least once in each month, and at other times, when called thereto by the president, or by a majority of the board.

#### Jurisdiction of board of health.

Sec. 167. Said board of health is hereby invested with general jurisdiction over all matters appertaining to the sanitary condition of such city, or city and county, and over all quarantine regulations and the enforcement thereof, and hospitals and alms-houses, and all municipal institutions created and maintained for charitable purposes

and not herein enumerated, within the corporate limits of such city, or city and county, and adopt such orders and regulations as may be necessary to the complete exercise of the powers hereinbefore enumerated, and may appoint or discharge such attendants and employees as may seem best to promote the public welfare.

### Salary.

Sec. 168. The members of said board of health shall receive no salary.

Salaries of officers appointed by board of health.

Sec. 169. Said board of health shall have power to appoint the following officers and employees, who shall receive the salaries hereinafter provided, payable in monthly installments at the end of each month, viz.:

1. One health-officer, who shall be the executive officer of said board, at a salary of two thousand four hundred dollars per annum;

2. One quarantine officer, at a salary of one thousand eight hundred dollars per annum;

3. One secretary, at a salary of two thousand four hundred dollars per annum;

4. Six health inspectors and one market inspector, at a salary of one thousand two hundred dollars per annum each; one messenger at nine hundred dollars per annum;

5. One superintendent of the city, or city and county, hospital, who shall be a physician and graduate of some medical college in good standing, at a salary of two thousand four hundred dollars per annum;

6. One resident hospital physician, at a salary of one thousand five hundred dollars per annum;

7. One hospital steward, at a salary of one thousand two hundred dollars per annum;

8. One hospital matron, at a salary of nine hundred dollars per annum;

9. One hospital apothecary, at a salary of one thousand two hundred dollars per annum;

10. One hospital engineer, at a salary of nine hundred dollars per annum;

11. Two physicians and two surgeons, to be selected from the faculty of the medical department of the University of California, and two physicians and two surgeons, to be selected from

the faculty of the Pacific Medical College, at such salary as the board of health may designate, not to exceed one thousand two hundred dollars each per annum, as visiting physicians and surgeons to the city, or city and county, hospital.

12. One alms-house superintendent, at a salary of two thousand four hundred dollars per annum;

13. One resident alms-house physician, at a salary of one thousand five hundred dollars per annum;

14. One alms-house matron, at a salary of seven hundred and twenty dollars per annum;

15. One city physician, at a salary not to exceed one thousand eight hundred dollars per annum;

16. One assistant city physician for the industrial school and house of correction, at a salary of one thousand two hundred dollars per annum;

17. One first cook, at a salary of sixty dollars per month;

18. One second cook, at a salary of thirty-five dollars per month;

19. One third cook, at a salary of thirty dollars per month;

20. One baker, at a salary of seventy-five dollars per month;

21. One clerk, at a salary of forty dollars per month;

22. One interpreter, at a salary of forty dollars per month;

23. One ambulance driver, at a salary of forty dollars per month;

24. Sixteen nurses, at a salary of thirty-five dollars each.

Appointing power.

Sec. 170. The appointing power of all and every of the aforesaid officers and employees is vested solely in said board of health, and said board shall have power to prescribe the duties of every and all of said officers and employees, and to remove the same at pleasure; and said board of health is hereby empowered to employ such additional employees as may be necessary to carry out the purposes of this act, at such compensations as said board of health may fix.

Salaries, how paid.

Sec. 171. The salaries of the officers and employees of said board of health, and all other expenses legally incurred by said board under the provisions of this chapter, shall be payable out of the general fund of the treasury of such city, or city and county; and the auditor of such city, or city and county, is hereby directed to audit all such demands, and the treasurer of such city, or city and county, is hereby directed to pay the same out of said general fund. The said board of health shall, annually, upon the third Monday of April of each year, transmit, in writing, to the municipal council of such city, or city and county, an estimate of the amount of money necessary to defray all of the expenditures of said board of health for the next fiscal year; and the board of health shall not expend, in any one fiscal year, an amount exceeding the amount of such estimate so transmitted by said board of health for such fiscal year, allowed upon such estimate by the municipal council, except in case of an epidemic of any contagious disease, when such board of health is hereby authorized to increase such expense as may be deemed necessary for the public safety; and all such expenses shall be payable out of the general fund of such city, or city and county, at the same time and in the same manner provided for other expenses of said board. Nothing in this act shall be construed to authorize said board of health to contract for or purchase supplies for any of the charitable institutions placed under its control by this chapter. All contracts for any of the work authorized by this chapter to be caused to be performed by said board of health shall be awarded by said board to the lowest responsible bidder, after notice, for not less than five days, in two daily newspapers published in such city, or city and county, under such regulations and requirements as said board of health may adopt.

Restrictions on officers.

Sec. 172. It shall not be lawful for any superintendent or other principal officer in charge of any alms-house in such city, or city and county, to have or receive any perquisites, or to derive any income or revenue therefrom, either directly

or indirectly, other than the salary allowed to him by the board of health; nor shall it be allowable for any subordinate officer or employee to have or receive any perquisites, either directly or indirectly; and it shall be the duty of the board of health to remove any such superintendent, or other principal officer, or any subordinate officer or employee who violates any provision of this section. All fees authorized by any of the provisions of this chapter, to be collected by any officer or employee of the board of health, shall be immediately paid by such officer or employee to the secretary of said Board of health, who shall, upon the first Monday of each month, pay the same into the treasury of such city, or city and county, to be credited to the proper fund.

Report of ship-masters of contagious diseases.

Sec. 173. Ship-masters bringing vessels into the harbor of any such city, or city and county, and all masters, owners, or consignees having vessels in such harbor, which have on board any cases of Asiatic cholera, small-pox, yellow, typhus, ship fever, or any other contagious disease, must report the same, in writing, to the quarantine officer before landing passengers, casting anchor, or coming to any wharf, or as soon thereafter as they, or either of them, become aware of the existence of either of these diseases on board of their vessel.

Restrictions on ship-masters, etc.

Sec. 174. No captain or other officer in command of any vessel sailing under a register, arriving at the port of any such city, or city and county nor any owner, consignee, agent, or other person having charge of such vessel, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any freight, passengers, or other persons from such vessels, until he has reported to the quarantine officer, presented his bill of health, and received a permit from that officer to land freight, passengers, and other persons.

Duty of pilot.

Sec. 175. Every pilot who conducts into the port of any such city, or city and county, any vessel

subject to quarantine, or examination by the quarantine officer, must:

1. Bring the vessel no nearer such city, or city and county, than is allowed by law;

2. Prevent any person from leaving such vessel, and any communication being made with the vessel under his charge, until the quarantine officer has boarded her and given the necessary orders and directions;

3. Be vigilant in preventing any violation of the quarantine laws, and report, without delay, all such violations that come to his knowledge, to the quarantine officer;

4. Present the master of the vessel with a printed copy of the quarantine laws, unless he has one;

5. If the vessel is subject to quarantine, by reason of infection, place at the masthead a small yellow flag.

**Duty of master of vessel.**

Sec. 176. Every master of a vessel subject to quarantine, or visitation by the quarantine officer, arriving in the port of any such city, or city and county, who refuses or neglects either:

1. To proceed with and anchor his vessel at the place assigned for quarantine, when legally directed so to do; or,

2. To submit his vessel, cargo, and passengers to the quarantine officers, their inspection, examination, and direction, and furnish all necessary information to enable that officer to determine to what quarantine or other regulations they might respectively be subject; or,

3. To report all cases of disease and of death occurring on his vessel, and to comply with all the sanitary regulations of such port or harbor;

—Is liable in the sum of five hundred dollars for every such neglect or refusal.

**Master of infected vessel must report.**

Sec. 177. All vessels arriving off the port of any such city, or city and county, from ports which have been legally declared infected ports, and all vessels arriving from ports where there is prevailing, at the time of their departure, any contagious, infectious, or pestilential diseases, or vessels with decaying cargoes, or which have usually foul or offensive holds, are subject to quaran-



tine, and must be by the master, owner, pilot, or consignee reported to the quarantine officer without delay. No such vessel must pass within the bounds prohibited them by the board of health, until the quarantine officer has boarded her and given the order required by law.

Duty of quarantine officer.

Sec. 178. The quarantine officer must board every vessel subject to quarantine or visitation by him, immediately on her arrival, make such examination and inspection of vessels, books, papers, or cargo, or of persons on board, under oath, as he may judge expedient, and determine whether the vessel should be ordered to quarantine, and if so, the period of quarantine.

Masters of certain vessels not to permit landing until he receives permit.

Sec. 179. No captain, or other officer, in command of any passenger-carrying vessel of more than one hundred and fifty tons burden, nor of any vessel of more than one hundred and fifty tons burden having passengers on board, nor any consignee, owner, agent, or other persons having charge of such vessel or vessels, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any passenger from the vessel until he has presented his bill of health to the quarantine officer and received a permit from that officer to land such passengers, except in such cases as the quarantine officer deems it safe to give the permit before seeing the bill of health.

Fees.

Sec. 180. The following fees shall be collected by the quarantine officer for giving a permit to land freight or passengers, or both: From any sailing vessel of less than five hundred tons burden, from any port out of this state, two dollars and fifty cents; five hundred and under one thousand tons burden, five dollars; each additional one thousand tons burden, or fraction thereof, an additional two dollars and fifty cents; for steam-vessels, propelled in whole or in part by steam, of one thousand tons burden or less, five dollars, and two dollars and fifty cents additional for each additional one thousand tons burden or fraction

thereof. But vessels not propelled in whole or in part by steam, sailing to and from any port or ports of the Pacific states of the United States or territories, and whaling vessels entering the harbor of any such city and county, are excepted from the provisions of this section.

Duty of board of health.

Sec. 181. The board of health may enforce compulsory vaccination on passengers or [on] variola-infected ships, or coming from ports infected with the same.

Same.

Sec. 182. The board of health shall establish quarantine grounds at such points and places as in its judgment may best conduce to public safety; may provide suitable hospitals whenever the same are required for the public safety, and furnish and supply the same with nurses and attaches, and remove thereto all persons afflicted with cholera, small-pox, yellow, typhus, ship fever, or other contagious diseases; provided, said quarantine grounds and hospitals shall not be established within one mile of the mainland on the north side of the bay of San Francisco.

Duty of board of health.

Sec. 183. The board of health must cause to be kept a record of all births, deaths, and interments occurring in such city, or city and county, coming under the provisions of this chapter. Such records, when filed, must be deposited in the office of the city, or city and county, recorder, and produced when required for public inspection.

Duty of physicians and midwives.

Sec. 184. Physicians and midwives must, on or before the fourth day of each month, make a return to the health-officer of all births, deaths, and the number of still-born children occurring in their practice during the preceding month. In the absence of such attendants, the parents must make such report within thirty days after the birth of the child. Such returns must be made in accordance with rules adopted by, and upon blanks furnished by, the board of health.

Human bodies not to be buried without permit.

Sec. 185. No person shall deposit in any cemetery, or inter in any such city, or city and county,

any human body, without first having obtained and filed with the health-officer a certificate, signed by a physician or midwife, or coroner, setting forth as near as possible the name, age, color, sex, place of birth, occupation, date, locality, and the cause of death of deceased, and obtain from such health officer a permit. The physicians, when death occurs in their practice, must give the certificate herein mentioned. It shall be the duty of the said board of health to see that the dead body of a human being is not allowed to remain in any public receiving vault for a longer period than five days. At the expiration of that time it shall cause the body to be buried, or to be placed in a vault or niche, constituted of brick, stone, or iron, and hermetically sealed. It shall also be the duty of said boards to require all persons having in charge the digging of graves, and the burial of the dead, to see that the body of no human being who has reached ten years of age shall be interred in a grave less than six feet deep, or if under the age of ten years, the grave to be not less than five feet deep. The board of health shall have entire charge of all cemeteries belonging to such city, or city and county, and may employ a superintendent thereof, at a salary not to exceed seventy-five dollars per month, the same to be paid out of the general fund as the salaries of the other employees are paid.

#### Duty of superintendent of cemeteries.

Sec. 186. Superintendents of all cemeteries in any such city, or city and county, must return to the health-officer, on each Monday, the names of all persons interred or deposited within their respective cemeteries during the preceding week, and no superintendent of a cemetery, or any other person, can remove, or cause to be removed, or cause to be disinterred, any human body or remains that have been deposited in a cemetery without a permit therefor from the health-officer, or by order of the coroner.

Human body not to be disinterred without permit.

Sec. 187. It shall be unlawful to disinter or exhume from a grave, vault, or other burial place within the limits of such city, or city and county,

the body or remains of any deceased person, unless a permit for so doing shall have first been obtained from the health-officer of such city, or city and county. Nor shall any body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be transported in or through the streets or highways of any such city, or city and county, unless the person or persons removing or transporting such body or remains shall first obtain from the health-officer a permit, in writing, therefor, as aforesaid. But when an applicant for a permit to disinter a body shall desire to remove said body beyond the limits of such city, or city and county, and shall so state on making application, the permit, if the same be issued, shall include the right to disinter and remove, and said permit shall accompany the remains.

Discretion of health-officer.

Sec. 188. Permits to disinter or exhume the bodies or remains of deceased persons and to transport the same, or to exhume, or to transport, as in the last section provided, may be granted, in the discretion of the health-officer, and under such restrictions and conditions only as he, in his judgment, may affix, so as in the best possible manner to protect the public health. The health-officer shall prepare a book of blank permits in proper form, and consecutively numbered, containing stubs, on which, as well as in the permit, shall be entered a record of the transaction, giving the name, age, sex, nativity, date of death, destination of remains sought to be removed, and upon granting each permit shall be required to be paid to him the sum of ten dollars therefor, for the use and benefit of the general fund of such city, or city and county.

Penalty of disinterring without permit.

Sec. 189. Any person or persons who shall disinter, exhume, or remove, or cause to be disinterred, exhumed, or removed, from a grave, vault, or other receptacle or burial-place, the remains of a deceased person, without a permit therefor, shall be guilty of a misdemeanor, and be punished by fine not less than fifty dollars nor more than five hundred dollars, or imprisonment in the county

jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

Penalty for transporting body without permit.

Sec. 190. Any person or persons who shall transport, or cause to be transported, on or through the streets or highways of any such city, or city and county, the body or remains of a deceased person which has been disinterred or exhumed without a permit therefor, in accordance with this chapter, shall be guilty of a misdemeanor, and be punished as provided in the preceding section.

Exception.

Sec. 191. Nothing in this chapter contained shall be taken to apply to the removal of the remains of the deceased person from one place of interment to another place of interment, or cemetery, within this state.

Penalties.

Sec. 192. No person, master, captain, or conductor in charge of any boat, vessel, or railroad car, or public or private conveyance, shall receive for transportation, or shall transport, the body of any person who has died within the limits of such city, or city and county, without said body is accompanied by a permit for such transportation from the health-officer, which permit shall accompany the body to its destination; and no person, master, captain, or conductor, as aforesaid, shall bring into or transport through any such city, or city and county, the dead body or remains of any person unless it be accompanied with a certificate from some proper authority of the place from whence it came, stating the name, age, sex, and cause of death, which certificate shall be filed at the health-office; provided, that in no case shall the body of any person who died of contagious disease be brought to such city, or city and county, within one year after the day of death.

Nuisances, how abated.

Sec. 193. Whenever a nuisance shall exist on the property of any non-resident, or any property the owner or owners of which cannot be found by either health inspector, after diligent search, or on

the property of any owner or owners upon whom due notice may have been served, and who shall for three days refuse or neglect to abate the same, or any property belonging to such city, or city and county, it shall be the duty of the board of health to cause the said nuisance to be at once removed or abated, and to draw upon the general fund in such sums as may be required for such removal or abatement, not to exceed two hundred dollars; provided, that whenever a larger expenditure is found necessary to be made in the removal or suppression of any nuisance, the municipal council of such city, or city and county, shall, upon the written application of the board of health, by ordinance, appropriate, allow, and order paid, out of the general fund, such sum or sums as may be necessary for that purpose; provided further, that in all cases where such expenditure will exceed five hundred dollars, no appropriation shall be made for that purpose unless the city, or city and county, attorney shall first give his opinion in writing that such expenditure would be a legal charge against the property affected thereby. And the auditor shall audit and the treasurer shall pay all appropriations of money made in pursuance of this section, in the same manner as is now provided by law for auditing and paying demands upon the treasury.

Fee-book open to public inspection.

Sec. 194. The health-officer and the quarantine officer must each keep a book open to public inspection, in which must be entered daily all fees collected by them, and they must pay all fees collected to such city, or city and county, treasurer, daily, to the credit of the general fund.

Bond of health-officer.

Sec. 195. The health-officer must execute an official bond, with two sureties, to be approved by the board of health, in the sum of ten thousand dollars; and the quarantine officer must execute a like official bond, with two sureties, in the sum of ten thousand dollars, which bonds shall be filed with the auditor of such city, or city and county. Who may administer oaths.

Sec. 196. Any member of the board of health, the health-officer, and the quarantine officer, and the



secretary of the board of health, is hereby authorized to administer oaths on business connected with the health department.

Suits, where maintained.

Sec. 197. Whenever any cause of action arises under any of the provisions of this chapter relating to the health department, suit may be maintained thereon in the name of the health or quarantine officer, as the case may be, in any superior court or justice's court of this state.

Duty of physicians in certain cases.

Sec. 198. Every physician in any such city, or city and county, shall report to the health officer, in writing, every patient he shall have laboring under Asiatic cholera, variola, diphtheria, scarlatina, or other contagious diseases, immediately thereafter, and report to the same officer every case of death from such disease.

Duty of householders in certain cases.

Sec. 199. Every householder in any such city, or city and county, shall forthwith report, in writing, to the health officer the name of every person boarding, or an inmate of his or her house, whom he or she shall have reason to believe sick of cholera, or small-pox, and any deaths occurring at his or her house from such disease.

Park commissioners, how appointed and their duties.

Sec. 200. There shall be a board of park commissioners of such city, or city and county, consisting of three persons, to be appointed by the governor of this state, who shall hold their office for four years, and who shall receive no compensation for their services. In case of a vacancy, the same shall be filled by the remaining members of the board for the residue of the term then vacant; and all vacancies occasioned by expiration of terms of office, or neglect, or incapacity, shall be filled by the governor aforesaid. Each of said commissioners shall be a freeholder and resident of such city, or city and county. Said board shall have full and exclusive control and management of all the parks of such city, or city and county, which at the time of the organization of such city,

or city and county, under this act, were treated and improved as public parks, with the avenues and great highways connected therewith. Two of said commissioners shall constitute a quorum to do business, but no money shall be expended or contract entered into authorizing the expenditure of money without the approval of the mayor and a majority of said board of park commissioners.

#### Powers.

Sec. 201. Said board shall have power to govern, manage, and direct said parks and avenues leading thereto as have heretofore been operated or managed in connection therewith; to lay out, regulate, and improve such parks and avenues; to pass ordinances for the regulation and government of the same; to appoint one general superintendent, who shall perform the duties of overseer and managing gardener, who shall receive a salary of two thousand four hundred dollars per annum. The city, or city and county, surveyor shall be ex officio engineer of the works, and shall perform such engineering work as the commissioners may require of him. Prisoners over the age of twenty-one years, sentenced to hard labor in any of the jails, prisons, houses of correction, work-houses, or other penal establishments of such city, or city and county, may be put to work upon the parks. The commissioners may employ such other laborers as shall be necessary, within the amount allowed by law to be expended on said parks, at wages not to exceed the current wages paid in such city, or city and county, for labor. They shall in no year incur any debt or deficit, nor expend any money beyond the amount realized by the tax herein provided for. All persons violating any of the ordinances of the commissioners regulating the parks shall be deemed guilty of misdemeanor, and punished accordingly.

#### Taxes for park improvement, how levied.

Sec. 202. The municipal council shall have the power to levy and collect, in the mode prescribed by law for the levy and collection of taxes, each year, upon all property in such city, or city and county, the sum of one and one-half cents upon each one hundred dollars valuation of taxable

property therein, for the purpose of preserving and improving the parks and avenues under control and management of said commissioners. Said money shall be paid into the treasury, and paid out for said purpose; all claims to be first allowed by said commissioners and audited by the auditor. The jurisdiction of the park commissioners shall not extend to unimproved parks, nor squares and places not hitherto treated as parks, unless extended thereto by an ordinance of the municipal council. The commissioners may lease, for terms not to exceed three years, any portion of said grounds not immediately required for improvement, the proceeds to go to the improvement of the parks and avenues.

**Reports of park commissioners.**

Sec. 203. The park commissioners shall make semi-annual reports to the mayor and municipal council of all their proceedings, and a detailed statement of all the receipts and expenditures.

**Duties of mayor and other officers in reference to contracts.**

Sec. 204. The mayor shall see that all contracts and agreements with the city are faithfully kept and performed, and to this end he shall cause legal proceedings to be instituted and prosecuted against all persons or corporations failing to fulfill their agreements. And it is the duty of any and every city, or city and county, officer, when it shall come to his knowledge that any contract with such city, or city and county, relating to the business of any office whatever, has been or is about to be violated by the other contracting party, forthwith to report the fact to the mayor. A failure to do so shall be a sufficient cause for the removal of any officer of any department. The mayor shall give a certificate, on demand, to any officer giving such information that he has done so, which certificate shall be evidence in exoneration from a charge of neglect of such duty. The city, or city and county, attorney shall prosecute all suits so ordered by the mayor.

## Article V.—Judicial Department.

Number and jurisdiction of justices.

Sec. 213. There shall be in and for such city, or city and county, one justices' court, composed of six justices of the peace, which shall have the powers and jurisdiction prescribed and conferred by law upon justices of the peace and justices' court in such city, or city and county. All actions, suits, and proceedings whereof justices of the peace and justices' courts in such city, or city and county, have jurisdiction, shall be commenced, entitled and prosecuted in said court. Such court shall be always open, non-judicial days excepted, and causes therein may be tried before the presiding justice, before any one of the justices before whom the original process may be made returnable, or to whom the cause may be assigned or transferred for trial.

Presiding justice.

Sec. 214. The board of aldermen shall appoint one of the justices of the peace to be presiding justice, who, as such, shall hold office until his successor shall in the same manner be appointed; and any one of the other justices may attend, preside and act as presiding justice during the temporary absence or disability of the justice so appointed. The board of aldermen, within ten days after its organization as such board, shall appoint a justices' clerk, who shall hold office during the pleasure of the appointing power. The clerk shall take the constitutional oath of office, and give bond, with at least two sufficient sureties, to be approved in the same manner as the official bond of other officers of such city, or city and county, in the sum of not less than fifteen thousand dollars, payable to the city, or city and county, conditioned for the faithful discharge of the duties of his office, and well and truly to account for and pay into the treasury of such city, or city and county, as required by law, all moneys by him collected or received, and by law designated for that use. A new or additional bond may be required by the municipal council whenever it deems it necessary; and on failure to furnish such

new or additional bond within five days after it shall be required, the office shall become vacant. The justice's clerk shall have authority to administer oaths, and take and certify affidavits in any action, suit or proceeding in all courts of such city, or city and county, and to appoint two deputy clerks, for whose acts he shall be responsible on his official bond; the said deputy clerks to hold office during the pleasure of said clerk. Said deputy clerks shall have the same power as the said clerk, except that of appointment.

Offices for justices, and office hours.

Sec. 215. The municipal council of such city, or city and county, shall provide, in some convenient locality in the city, or city and county, a suitable office, or suite of offices, for said presiding justice, justices' clerk, deputy clerk, and deputy sheriff, and offices suitable for holding sessions of said court, and separate from one another, for each of said justices of the peace, together with attendants, furniture, fuel, lights and stationery, sufficient for the transaction of business; and if they are not provided, the court may direct the sheriff to provide the same, and the expenses incurred, certified by the justices to be correct, shall be a charge against the city, or city and county, treasury and paid out of the general fund thereof. The said justices, justices' clerk and deputy clerk, shall be in attendance at their respective offices for the dispatch of official business daily, from the hour of nine o'clock a. m. until five o'clock p. m.

Legal process, how issued.

Sec. 216. All legal process of every kind in actions, suits or proceedings in said justices' court, for the issue of service of which any fee is or may be allowed by law, shall be issued by the said justices' clerk, upon the order of the presiding justice, or upon the order of one of the justices of the peace, acting as presiding justice, as in this chapter provided; and the fees for issuance and service of all such process, and all other fees which are allowed by law for any official services of justices, justices' clerk, or sheriff, shall be exacted and paid in advance into the hands of said clerk, and be by him daily, weekly or

monthly, as the municipal council may require, and before his salary shall be allowed, accounted for in detail, under oath, and paid into the treasury of such city, or city and county, as part of the special-fee fund thereof; provided, that such payment in advance shall not be exacted from parties who may prove, to the satisfaction of the presiding justice, that they have good cause of action, and that they are not of sufficient pecuniary ability to pay the legal fees; and no judgment shall be rendered in any action before said justices' court, or any of said justices, until the fees allowed therefor, and all fees for previous services therein, which are destined to be paid into the treasury, shall have been paid, except in cases of poor persons, as hereinbefore provided.

**Sheriff and deputies for justices' courts.**

Sec. 217. The sheriff of such city and county shall be ex-officio an officer of said court, and it shall be his duty to serve or execute, or cause to be served and executed, each and every process, writ, or order that may be issued by said justices' court; provided, that a summons issued from said court may be served and returned as provided in section eight hundred and forty-nine of the Code of Civil Procedure; and that subpoenas may be issued by the justices' clerk, and served as provided in sections nineteen hundred and eighty-seven and nineteen hundred and eighty-eight of the Code of Civil Procedure. The said sheriff may appoint, in addition to the other deputies allowed by law, three deputies, whose duty it shall be to assist said sheriff in serving and executing the process, writs, and orders of the said justices' court. Said deputies shall receive a salary of not to exceed one hundred and twenty-five dollars per month each, payable monthly, out of the city and county treasury, and out of the special-fee fund, after being first allowed and audited as other demands are by law required to be audited and allowed. One of said deputies shall remain in attendance during the sessions of said court, and at such other times as the said court or the presiding justice thereof may order and direct, for the purpose of attending to such duties as may be imposed on said sheriff or said deputies, as herein provided



or required by law. The said sheriff shall be liable on his official bond for the faithful performance of all duties required of him or any of his said deputies.

#### Style of action.

Sec. 218. All actions, suits, and proceedings in such city, or city and county, whereof justices of the peace or justices' courts have jurisdiction, except those cases of concurrent jurisdiction that may be commenced in some other court, shall be entitled, "In the justices' court of the city of — (or the city and county of —)," (inserting the name of the city, or city and county), and commenced and prosecuted in said justices' court, which shall be always open. The original process shall be returnable, and the parties summoned required to appear, before the presiding justice, or before one of the other justices of the peace, to be designated by the presiding justice at his office; but all complaints, answers, and other pleadings and papers required to be filed, shall be filed and a record of all such actions, suits, and proceedings made and kept in the clerk's office aforesaid; and the presiding justice, and each of the other justices, shall have power, jurisdiction, and authority to hear, try, and determine any action, suit, or proceeding so commenced, and which shall have been made returnable before him, or may be assigned or transferred to him, or any motion, application, or issue therein (subject to the constitutional right of trial by jury), and to make any necessary and proper orders therein.

In case of disability of justice, case to be tried before another justice.

Sec. 219. In case of sickness, or disability, or absence of a justice of the peace (on the return of a summons, or at the time appointed for trial) to whom a cause has been assigned, the presiding justice shall reassign the cause to some other justice, who shall proceed with the trial and disposition of said cause in the same manner as if originally assigned to him; and if, at any time before the trial of a cause or matter returnable or pending before any of said justices, either party shall object to having the cause or matter tried before said justice on the ground that such justice is a

material witness for either party, or on the ground of the interest, prejudice, or bias of such justice, and such objection be made to appear in the manner prescribed by section eight hundred and thirty-three of the Code of Civil Procedure, the said justice shall suspend proceedings, and the presiding justice, on motion and production before him of the affidavit and proofs, shall order the transfer of the cause or matter for trial before some other justice, to be designated by him. The presiding justice may, in like manner, assign or transfer any contested motion, application, or issue in law, arising in any cause, returnable or pending before him or any other justice, to some other justice, and the said justice to whom any cause, matter, motion, application, or issue shall be so as aforesaid assigned or transferred, shall have power, jurisdiction, and authority to hear, try, and determine the same accordingly.

Certain cases to be certified to superior court by presiding justice, and justices' clerk.

Sec. 220. Cases which, by the provisions of law, are required to be certified to the superior court, by reason of involving the question of title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, shall be so certified by the presiding justice and justices' clerk; and for that purpose, if such question shall arise on the trial while the case is pending before one of the other justices, such justice shall certify the same to the presiding justice. All abstracts and transcripts of judgments and proceedings in said court, or in any of the dockets or registers of or deposited in said court, shall be given and certified from any of such dockets or registers and signed by the presiding justice and clerk, and shall have the same force and effect as abstracts and transcripts of justices of the peace in other cases. Appeals from judgments rendered in said court shall be taken and perfected in the manner prescribed by law, and the notice of appeal and all papers required to be filed to perfect it shall be filed with the justices' clerk. Statements on appeal shall be settled by the justice who tried the cause. Sureties on appeal, or on any bond or undertaking given in any cause or proceeding in

said court, when required to justify, may justify before any one of the justices.

#### Jurisdiction.

Sec. 221. The jurisdiction of the justices' court of such city, or city and county, extends to the limits of the city, or city and county, and its process may be served in any part thereof.

#### Powers of associate justices.

Sec. 222. The presiding justice, whenever in his judgment the prompt dispatch of business shall demand it, may require the aid of one of the justices of the peace in the discharge either of his own duties or those of the justices' clerk (the collection of fees, accounting for, and paying the same into the treasury excepted), and each of the justices, when so required, shall, for the purpose, have the same power and authority as the presiding justice or clerk in whose aid he shall act; and any one of the justices, when required as aforesaid, may act as a justices' clerk pro tempore during the temporary absence or disability of such clerk, with the same powers, duties, and responsibilities.

#### "Justices' docket."

Sec. 223. In a suitable book, strongly bound, the justices' clerk shall keep a permanent record of all actions, proceedings, and judgments commenced, had, or rendered in said justices' court, which book shall be a public record, and be known as the "justices' docket," in which docket the clerk shall make the same entries as are provided for in section nine hundred and eleven of the Code of Civil Procedure, and which said docket and entries therein shall have the same force and effect as is provided by law in reference to dockets of justices of the peace. To enable the clerk to make up such docket, each of the justices shall keep minutes of his proceedings in every cause returnable before, or assigned or transferred to, him for trial or hearing, and upon judgment, or other disposition of a cause, such justice shall immediately certify and return the said minutes, together with all pleadings and papers in said cause, to the clerk's office, who shall immediately thereupon file the same, and make the proper entries under the title of the action in the docket aforesaid.

### Procedure.

Sec. 224. The justices' court and the justices of the peace of every such city and county shall be governed in their proceedings by the provisions of law regulating proceedings before justices of the peace, so far as such provisions are not altered or modified in this chapter, and the same are or can be made applicable in the several cases arising before them. The justices' court of such city, or city and county, shall have power to make rules, not inconsistent with the constitution and laws, for the government of such justices' court and the officers thereof; but such rules shall not be in force until thirty days after their publication; and no rule shall be made imposing any tax or charge on any legal proceeding, or giving any allowance to any justice or officer for services.

New justices' court a continuation of old.

Sec. 225. All actions and proceedings pending and undetermined before the justices' court of such city, or city and county, if any, at the time of its organization under this act, shall be proceeded in, heard, and determined before the court herein provided for, and execution shall be issued thereon, and other proceedings had therein, whether before or after judgment, whether on appeal or otherwise; and the court provided for under this act shall be deemed to be a continuation of the same court before existing, and not a new court.

Prohibition to practice by justices.

Sec. 226. It shall not be lawful for any justice of the peace, the justices' clerk, or the sheriff, or any of his deputies, of such city, or city and county, to appear or advocate, or in any manner act as attorney, counsel, or agent for any party or persons in any cause, or in relation to any demand, account, or claim, pending, or to be sued or prosecuted before said justices, or any of them, or which may be within their jurisdiction. A violation of the provisions of this section shall be deemed a misdemeanor in office.

Qualifications of attorneys.

Sec. 227. No person other than an attorney at law, duly admitted and licensed to practice in courts of record, shall be permitted to appear as attorney or agent for any party in any cause or

proceeding before said justices, or any of them, unless he produce a sufficient power of attorney to that effect, duly executed and acknowledged before one of said justices, or before some other officer authorized by law to take acknowledgment of deeds; which power of attorney, or a true copy thereof, duly certified by one of the justices aforesaid (who, on inspection of the original, shall attest to its genuineness), shall be filed among the papers in such cause or proceeding.

**Appointment of additional justices.**

Sec. 228. If, at the time of the organization of any such city, or city and county, under this act, there shall not be the complement of justices of the peace provided for in this chapter, the municipal council of such city, or city and county, shall appoint a suitable person or persons to fill such complement and the person or persons so appointed shall hold office from his or their appointment, and until his or their successor or successors is or are elected or appointed and qualified.

**Police court.**

Sec. 229. The judicial power of such city, or city and county, shall be vested in a "police court," to be held therein by the police judges. The police court shall not be a court of record. Said court shall have a seal. The judges of said court may hold as many sessions of said court at the same time as there are judges thereof. There shall be two departments of said court, denominated, respectively, Department One and Department Two. The court may sit in departments, and shall be always open for the transaction of business. There shall be, as far as practicable, an equal distribution of cases between the said departments, which cases shall be alternately set down for trial to each department in the order in which the warrants are issued or proceedings brought before the court. Said judges shall, as soon as may be after the commencement of the terms of their office, classify themselves by lot for assignment to said departments, and shall be thereby assigned accordingly.

**Power and jurisdiction of police court.**

Sec. 230. All the power and jurisdiction of said court shall be enjoyed and may be exercised in



bank, or in either department thereof. All the powers of said judges may be exercised by either of them.

Same.

Sec. 231. The police court of such city, or city and county, shall have jurisdiction:

1. Of an action or proceeding for the violation of any ordinance of such city, or city and county;
2. Of proceedings respecting vagrants and disorderly persons.

Same.

Sec. 232. The police court shall have jurisdiction of the following public offenses committed in such city, or city and county:

1. Petit larceny: receiving stolen property, when the amount involved does not exceed fifty dollars;

2. Assault and battery, not charged to have been committed upon a public officer in the discharge of his duties or with intent to kill;

3. Breaches of the peace, riots, affrays, committing willful injury to property, and of all misdemeanors punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment;

4. Said court or judges shall have jurisdiction of proceedings for security to keep the peace; and also, throughout such city and county, the same powers and jurisdiction, in other criminal actions, cases, prosecutions, and proceedings as are now or hereafter may be conferred by law upon police or justices' courts.

Power to hold examinations.

Sec. 233. The judges of said court shall have power to hear cases for examinations, and may commit and hold the offender to bail for trial in the superior court, and may try, condemn, or acquit, and carry their judgment into execution, as the case may require according to law, and shall have power to issue warrants of arrests, subpoenas, and all other process necessary to the full and proper exercise of their power and jurisdiction.

May commit to home of inebriate.

Sec. 234. Said court or judges shall also have power to commit to the home for the care of the



Inebriate, when any such institute may be established, any person who may be convicted before them of habitual intemperance, for a term not exceeding six months, or until sooner released by order of the police judges, or by the board of managers of such institution by a two-thirds vote of all the members of said board.

When may commit to industrial school.

Sec. 235. The said court or judges shall have the power to commit all offenders duly convicted, under eighteen years of age, to the industrial school of said city and county, in all cases where such commitment shall by said court or judge be deemed to be more suitable than the punishment otherwise provided by law, not to exceed six months. If, upon any trial, it shall appear that the person on trial is under fourteen years of age, and has done an act which if done by a person of full age would warrant a conviction of the crime of misdemeanor charged, then and in that case said court or judges shall have power to commit such child to the industrial school. In either case said court or judges may sentence such person to be confined in the correctional department of said industrial school for any term not exceeding six months. Upon application of the mayor, or any member of the supervisors, or of any three citizens, charging that any child under eighteen years of age lives an idle or dissolute life, and that his parents are dead, or, if living, do, from drunkenness or other vices or causes, neglect to provide any suitable employment, or exercise salutary control over such child, the said court or judges shall have power to examine the matter, and upon being satisfied of the truth of such charges, may sentence such child to the industrial school; provided, that no person shall be so sentenced for a longer period than until he arrive at the age of eighteen years.

May sentence to labor on public works, etc.

Sec. 236. In cases where, for any offense, the said court or judges are authorized to impose a fine, or imprisonment in the county jail, or both, it or they may instead sentence the offender to be employed at labor on the public works, or in the house of correction or work-house, as the super-

visors may prescribe, for a period of time equal to the term of imprisonment which might legally be imposed, and, may, in case a fine is imposed, embrace as a part of the sentence that in default of payment thereof the offender shall be obliged to labor on said works, at said house of correction or work-house, or elsewhere, at the rate of one dollar a day, till the fine imposed is satisfied; provided, that no person under the age of twenty-one years, or who is to be sentenced, on conviction for drunkenness or breach of the peace, shall be sentenced to labor upon the public works away from the house of correction or work-house.

Punishment of contempt.

Sec. 237. The said court and judges may punish contempts in the same manner and to the same extent as superior courts, and the laws concerning contempts applicable to superior courts shall be applicable to said police court and judges.

Record to be kept by county clerk.

Sec. 238. The county clerk shall keep a record of the proceedings of the police court, issue all process ordered by said court, and shall render to the auditor, monthly, and before any amount can be paid to him on account of his salary, an exact and detailed account, upon oath, of all fines imposed, and all bail forfeited, and moneys collected, as clerk of said court, since his last account rendered. He shall prepare bonds, justify and accept bail, when the amount has been fixed by the police judges, in cases not exceeding one thousand dollars, and he shall fix, justify, and accept bail after arrest, in the absence of the police judges, in all cases not amounting to a felony, in the same manner and with the like effect as if the same had been fixed by the police judges or police court. The county clerk shall appoint three deputy clerks, who shall act as deputy clerks of said police court. The clerk and the deputy clerks in this section mentioned shall have authority to administer oaths and affirmations, and take and certify affidavits in any proceeding in said police court, in and for said city and county, and to issue subpoenas.

Office hours.

Sec. 239. The police judges and the deputy clerks shall attend at the court rooms of said

court for the dispatch of business daily, from the hour of nine o'clock A. M. until five o'clock P. M., and during such other reasonable hours as may be necessary for the discharge of their respective duties, except on legal holidays.

Payment of fines by clerk into treasury.

Sec. 240. The county clerk, as clerk of the police court, shall pay to the treasurer of said city and county, immediately, all fines collected and bail forfeited, accompanied by a verified written statement showing from whom each fine was collected, when collected, in what case, specifying the offense, and in what amount, and in what case and by whom such bail was forfeited. He shall, immediately upon the forfeiting of any bail bond in the police court, transmit to the district attorney a copy of such bail bond, duly certified by him under the seal of that court to be a true copy, stating in such certificate the fact of such forfeiture, and the date thereof.

Justice of the peace may preside in police court.

Sec. 241. Any justice of the peace of the said city and county who may be designated, in writing, by the mayor for the purpose, shall have power to preside in and hold the police court of said city and county, or any department thereof, in the event of the temporary absence of the police judges, or either of them, or of their inability to act from any cause; and during such temporary absence or disability the justice so designated shall act as police judge, and shall have and exercise all the powers, jurisdiction, and authority which are or may be by law conferred upon said court or judges.

Duty of assistant district attorney.

Sec. 242. It shall be the duty of the assistant district attorneys, acting in the police court, or either and each of them, whenever they shall have been credibly informed that any person criminally injured by another is likely to die, to take the dying statement of such person, and to immediately reduce the same to writing. It is also hereby made the duty of attending physicians, and others knowing of such cases, to report the same immediately to such assistant district attorneys.

### Attorney before police court.

Sec. 243. No person shall be permitted to act as attorney or counsel before the police court or the police judges, unless he shall be an attorney and counselor admitted to practice in the supreme court of this state.

### Bailiffs for court.

Sec. 244. The chief of police shall designate two or more policemen, who shall attend constantly upon the police court, act as bailiffs therein, and execute the orders and process of said court and the judges thereof.

### Abolition of courts and transfer of records.

Sec. 245. The police judge's court and the police judge's court number two of said city and county, and the offices of the judges thereof, shall be abolished at twelve o'clock noon, of the first Monday after the first day of January, in the year eighteen hundred and eighty-five, and at that time all records, registers, dockets, books, papers, actions, warrants, judgments, and proceedings lodged, deposited, or pending before the said last-mentioned courts, or the judges thereof, shall be by force hereof transferred to said police court, which police court and the police judges herein provided for shall have the same power and jurisdiction over them as if they had been in the first instance lodged, deposited, or commenced in said police court, or before the judges last aforesaid; but nothing herein contained shall affect any judgment rendered or proceeding had before that time in said police judge's court or said police judge's court number two, or before the judges thereof, or either of them.

### Interpreters.

Sec. 246. There shall be appointed by the judges of the superior court of such city and county five competent persons deputies to act as interpreters and translators of the following languages: French, German, Italian, Spanish, Portuguese, Chinese, and Slavonian. The said deputies shall each receive a salary of one thousand two hundred dollars per annum, which shall be paid in the same manner as the salaries of other officers are paid. It shall be the duty of each of said deputies to attend in all the courts in and for

such city and county, when required by any of the judges thereof, without further compensation than the salaries above provided.

## Article VI.—Educational Department.

### Boards of education.

Sec. 247. There shall be a board of education for such city, or city and county, which shall be composed of twelve school directors, elected as provided in this chapter, who shall hold office for two years, and until their successors are elected and qualified. They shall have the same qualifications as to eligibility requisite for members of the board of aldermen. Said board shall organize immediately after the election and qualification of its members, by electing a president from among the directors elected, and annually thereafter, and shall hold meetings monthly, and at such times as the board shall determine. A majority of all the members elected shall constitute a quorum to transact business, but a smaller number may adjourn from time to time. The board may determine the rules of its proceedings. Its sessions shall be public, and its record shall be open to public inspection.

### Superintendent of schools.

Sec. 248. There shall be elected by the qualified voters of such city and county, at the general state election, a superintendent of schools, who shall take office on the first Monday after the first day of January next following his election, and hold office for the term of four years, and until his successor is elected and qualified. He shall perform such duties as are prescribed by law.

### Powers of board.

Sec. 249. The board of education shall have power:

#### Establish districts.

1. To establish school districts, and to fix and alter the boundaries thereof.

#### Maintain schools.

2. To maintain public schools as organized at the time of the organization of such city, or city and



county, under this act, and to consolidate and discontinue the same as the public good may require.  
Establish high-schools.

3. To establish high, normal, and experimental schools for the education of teachers.

Employ and dismiss teachers, etc.

4. To employ and pay and to dismiss teachers, janitors, school-census marshals, and such mechanics and laborers, and such other persons as may be necessary to carry into effect the powers and duties of the board, and, unless otherwise provided by law, to fix, alter, and allow paid their salaries and compensations, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

Make and establish rules, etc.

5. Also to make and establish and enforce all necessary and proper rules and regulations for the government and efficiency of the schools, teachers, and pupils, and for the carrying into effect of the school system; and to establish and regulate, and grade the schools, the course of studies and mode of instruction therein; to investigate all charges of misconduct on the part of teachers and other employees of the board; to administer oaths and take testimony; to summon and enforce the attendance of and examine witnesses for such purpose before the board, or a member or committee thereof. Any person summoned and refusing to attend and testify shall be deemed guilty of a misdemeanor; and any person testifying falsely shall be guilty of perjury, and on conviction punished accordingly.

Provide fuel, stationery, etc.

6. To provide for the school department of such city, or city and county fuel, lights, blanks, blank-books, books, printing, and stationery, and such other articles, materials, or supplies as may be necessary and appropriate for use in the schools, or in the office of the superintendent.

Provide school-houses.

7. To build, alter, repair, rent, and provide school-houses, and furnish them with proper school furniture, apparatus, and appliances, and to insure any and all school property, and to use



and control such buildings as may be necessary for the uses of the board and its committees.

To purchase school lots.

8. To receive, purchase, lease, and hold in fee in trust for such city, or city and county, any and all real estate and personal property that may have been or which hereafter may be acquired for the use and benefit of the schools of such city, or city and county.

Grade school lots.

9. To grade, fence, and improve school lots, and in front thereof.

To sue and be sued.

10. To sue for any and all lots, lands, and property belonging to or claimed by the school department of such city, or city and county, and to prosecute and defend all actions at law or in equity necessary to recover the full enjoyment and possession of said lots, lands, and property, and to require the services of the city, or city and county, attorney in all such suits and proceedings.

To superintend disbursement of school moneys.

11. To establish regulations for the just and equal disbursement of all moneys belonging to the school department, or to the public-school fund, and to make rules and regulations to secure economy and accountability in the expenditure of school money.

To sell certain personal property.

12. To discharge all legal incumbrances existing upon any school property; to dispose of and sell such personal property used in the schools as shall no longer be required, and all moneys realized by such sales shall be paid into the city treasury to the credit of the public-school fund.

To lease lots, etc.

13. To lease, for the benefit of the public-school fund, for a term not exceeding five years, any unoccupied property of the school department not required for school purposes; to prohibit any child under six years of age from attending the schools; and generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said board.

Who may administer oaths.

Sec. 250. The president of the board of education, the superintendent, and the secretary shall have power to administer oaths or affirmations concerning any demands upon the treasury payable out of the public-school fund, or other matters relating to their official duties or the school department.

Reports.

Sec. 251. It shall be the duty of each director to make quarterly reports to the board of the condition of the schools in their respective districts.

Supplies, how furnished.

Sec. 252. It shall be the duty of the board of education to furnish all necessary supplies for the public schools. All supplies, books, stationery, fuel, printing, goods, material, building, repairs, merchandise, and every other article and thing supplied to or done for the public schools, or any of them, when the expenditure to be incurred is likely to exceed two hundred dollars, shall be done by contract, let to the lowest responsible bidder, after advertisement by the superintendent of schools; and the contract shall be entered into by the superintendent with the party to whom the contract is awarded; and the superintendent shall take care that such contract is carried out in strict accordance with the terms thereof.

Bids and contracts, how made and awarded.

Sec. 253. All bids or proposals made under the preceding section shall be delivered to the superintendent of schools, and said board shall, in open session, open, examine, and publicly declare the same, and award the contract to the lowest responsible bidder; provided, said board may reject any and all bids, should they deem it for the public good, and also the bid of any party who may be proved delinquent or unfaithful in any former contract with such city and county, or said board, and cause a republication of the notice for proposals as above specified. Any person may bid for any one article.

Not to be interested in contract.

Sec. 254. Any school director, officer, or other person officially connected with the school department, or drawing a salary from the board of edu-

cation, who shall, while in office, or so connected, or drawing salary, be interested, either directly or indirectly, in, or who shall gain any benefit or advantage from, any contract, payments under which are to be made in whole or part of the moneys derived from the school fund, or raised by taxation or otherwise for the public schools, shall be deemed guilty of felony, and on conviction, punished accordingly; and this provision shall not be construed to relieve such persons from any other penalty, but shall be deemed cumulative to and with other penalties and disabilities as to such acts and offenses.

#### Annual report.

Sec. 255. The board shall make and transmit, between the fifteenth day of January and the first day of February of each year, to the state superintendent of public instruction, and to the mayor and municipal council of such city, or city and county, a report, in writing, stating the whole number of public schools within the jurisdiction, the length of time they have been kept open, the number of pupils taught in each school, the whole amount of money drawn from the treasury by the department during the year, distinguishing the amounts drawn from the general fund of the state from all other, and from what sources, and the manner and purpose in which such money has been expended, with particulars, and such other information as may be required from them by the state superintendent, the municipal council, or the mayor.

#### Evening school.

Sec. 256. The board shall provide evening-schools, to be held in the public school-houses, for the benefit of those unable to attend the day-schools. They shall make and enforce regulations requiring the teachers to keep records of the names, ages, and residences of all pupils, and the names and residences of their parents, and the aggregate attendance of each pupil during the year, and to verify and report the same on the thirty-first day of December to the board; and such other rules and regulations for the purpose of ascertaining the attendance and efficiency of the department and progress of education.

Superintendent a member of board.

Sec. 257. The superintendent of schools shall be ex officio member of the board of education, without the right to vote.

Clerk.

Sec. 258. Said superintendent shall appoint a clerk, subject to the approval of the board of education, who shall act as secretary of said board. His salary shall be two hundred dollars a month. Said clerk may be removed at the pleasure of the superintendent, and shall perform such duties as shall be required of him by the board or the superintendent.

Report of superintendent.

Sec. 259. The superintendent shall report to the board annually, on or before the first day of August, and at such other time as the board may require, all matters pertaining to the expenditures, income, condition, and progress of the public schools of such city, or city and county, during the preceding fiscal year, with such recommendations as he may deem proper. He shall observe, and cause to be observed, such general rules for the regulation, government, and instruction of the schools, not inconsistent with the laws of the state, as may be established by the board. He shall attend the sessions of the board, and inform himself, at each session, of the condition of schools, school-houses, school funds, and other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in such city, or city and county. He shall acquaint himself with all the laws, rules and regulations governing the public schools in such city, or city and county, and the judicial decisions thereon, and give advice on subjects connected with the public schools gratuitously to officers, teachers, pupils, and their parents and guardians.

Shall visit schools.

Sec. 260. The superintendent of schools shall visit and examine the schools, and see that they are efficiently conducted, and that the laws and regulations of the board are enforced in all things, and that no religious or sectarian books or teachings are allowed in the schools, and to report

monthly to the board. He shall also report to the state superintendent at such times as such officer shall require.

**Vacancy, how filled.**

Sec. 261. Any vacancy in the office of school director shall be filled for the remainder of the term by a person to be appointed by the board of aldermen.

**Vacancy in office of superintendent, how filled.**

Sec. 262. In case of a vacancy in the office of superintendent, the board of aldermen may appoint a person to fill the vacancy until the next regular election, when the office shall be filled by the people.

**School fund.**

Sec. 263. The school fund of such city, or city and county, shall consist of all moneys received from the state school fund; of all moneys arising from taxes which shall be levied annually by the municipal council of such city, or city and county, for school purposes; of all moneys arising from sale, rent, or exchange of any school property, and of such other moneys as may, from any source whatever, be paid into said school fund. Said fund shall be kept in the city, or city and county, treasury, separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this chapter. No fees or commissions shall be allowed or paid for assessing, collecting, keeping, or disbursing any school moneys; and if at the end of any fiscal year any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal year; and shall not be, for any purpose whatever, diverted or drawn from said fund, except under the provisions of this chapter.

**School fund, how used.**

Sec. 264. The said school fund shall be used and applied by said board of education for the following purposes, to wit:

1. For the payment of the salaries or wages of teachers, janitors, school-census marshals, and other persons who may be employed by said board;

2. For the erection, alteration, repair, rent, and furnishing of school-houses;

3. For the expenses of high, normal, and experimental schools;

4. For the purchase money or rent of any real or personal property purchased or hired by the board;

5. For the insurance of all school property;

7. For the discharge of all legal incumbrances now or hereafter existing on any school property;

8. For lighting school-rooms, and the office and rooms of the superintendent and the board of education;

9. For supplying the schools with fuel, water, apparatus, blanks, blank-books, and necessary school appliances, together with books for indigent children;

10. For supplying books, printing, and stationery, for the use of the superintendent and board of education, and for the incidental expenses of the board and department;

11. In grading, fencing, and improving school lots.

#### Claims, how allowed.

Sec. 265. All claims payable out of the school fund (excepting coupons for interest on school bonds), shall be filed with the secretary of the board, and after they shall have been approved by a majority of all the members elect of the board, upon a call of "yeas" and "nays" (which shall be recorded), they shall be signed by the president of the board and the superintendent of the public schools, and be sent to the city and county auditor. Every demand shall have indorsed upon it a certificate of its approval by the board, showing the date thereof, and the law authorizing it, by title, date, and section. All demands for teachers' salaries shall be payable monthly.

#### Demands on school funds.

Sec. 266. Demands on the school fund may be audited and approved in the usual manner, although there shall not, at the time, be money in the treasury for the payment of the same; provided, that no demand on said fund shall be paid out of or become a charge against the school fund of any subsequent fiscal year; and further provided, that the entire expenditures of the said school department, for all purposes, shall not, in any fiscal



year, exceed the revenues thereof for the same year.

Auditor to designate fund.

Sec. 267. The city, or city and county, auditor shall state, by indorsement upon any claim or demand audited on the school fund, the particular money or fund out of which the same is payable, and that it is payable from no other source.

Audited bills receivable for taxes.

Sec. 268. Audited bills for the current fiscal year for wages or salaries of the teachers in the public schools shall be receivable for school taxes due upon real estate.

All demands shall be audited and paid in the usual manner.

Sec. 269. All lawful demands authorized by this chapter for school purposes shall be audited and approved in the usual manner, and the auditor and treasurer of such city, or city and county, are respectively authorized to audit and pay the same, when so ordered paid and approved by the said board; provided, that the said board shall not have the power to contract any debt or liability, in any form whatsoever, against such city, or city and county, in contravention of this chapter; and provided further, that the allowance or approval by the board of demands not authorized by this chapter shall be no warrant or authority to the auditor or treasurer to audit or pay the same.

Board of education to make estimate.

Sec. 270. It shall be the duty of the board of education of such city, or city and county, on or before the second Monday of September of each year, to report to the municipal council an estimate of the amount of money which will be required during the year for the purpose of meeting the current annual expenses of public instruction in such city, or city and county, specifying the amount required for supplies furnished pupils, for purchasing and procuring sites, for leasing rooms or erecting buildings, and for furnishing, fitting up, altering, enlarging, and repairing buildings; for the support of schools organized since the last annual apportionment for salary of teachers, janitors, clerks, and other employees, and

other expenditures authorized by law; but the aggregate amount so reported shall not exceed the sum of thirty-five dollars for each pupil who shall have actually attended and been taught in the preceding year in the schools entitled to participate in the apportionments. The number of pupils who shall be considered as having attended the schools during any one year shall be ascertained by adding together the number of days' attendance of all the pupils in the common schools during the year, and dividing the same by the number of school-days in the year. Said municipal council is authorized and empowered to levy and cause to be collected, at the time and in the manner of levying state and other city, or city and county, taxes, the amount of tax, not to exceed thirty-five dollars per pupil, determined and reported by the board of education. The amount so levied and collected shall not include the amount received annually from poll-taxes.

No sectarian school shall receive school money.

Sec. 271. No school shall receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect are taught, inculcated, or practiced, or in which any book or books containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect is used; nor shall any such books or teachings be permitted in the common schools.

No member of board shall disburse school money, or accept gift.

Sec. 272. No member of the board of education shall ever become the disbursing agent of such board, or handle or pay out any of its money under or upon any pretense whatever. Any violation of this provision shall be a misdemeanor, and shall subject the offender, besides the punishment, to removal from office. Any member or officer of the board of education who shall, while in office, accept any donation or gratuity in money, or of any valuable thing, either directly or indirectly, from any teacher, or candidate, or applicant for a position as teacher, upon any pretense whatever, shall be deemed guilty of a misdemeanor in office,

and shall be ousted by the board, or by any court of competent jurisdiction, from his seat, on proof thereof. Any member or officer of the board of education who shall accept any money, or valuable thing, or the promise thereof, with an agreement or understanding, express or implied, that any person shall, in consideration thereof, get the vote or influence of such member or officer for a situation as a teacher or employee of any kind in the school department, shall be deemed guilty of a felony, and on conviction, shall be punished accordingly.

#### Article VII.—Miscellaneous Provisions.

Laws which do not conflict with this act are continued in force.

Sec. 286. All the existing provisions of law defining the duties of county officers, excepting those relating to supervisors and boards of supervisors, so far as the same are not inconsistent with, repealed, or altered by the provisions of this chapter, shall be considered as applicable to officers of any consolidated cities and counties, acting or elected under this chapter. Provisions shall be made from the revenues of any city, or city and county, heretofore existing and reorganized under this act, for the payment of the legal indebtedness of the municipal incorporation to which such reorganized city, or city and county, shall succeed, or of which it is a reorganization, as well as for that of such city, or city and county, after its organization, and all funding acts and other laws providing for the payments of principal and interest on any funded debt of such former corporation shall remain in force. The taxes which may be levied and collected in such city, or city and county, shall be uniform throughout the same.

Where provisions of this chapter shall apply.

Sec. 287. The provisions of this chapter concerning the following-named officers, to wit, sheriff, county clerk, recorder, coroner, and public administrator, shall apply only to consolidated cities and counties. The provisions of this chapter relating to the district attorney shall, except in consolidated

cities and counties, be deemed to apply to the city attorney; and no sheriff, county clerk, recorder, district attorney, coroner, or public administrator shall be elected in any municipal corporation under the provisions of this chapter, except in consolidated cities and counties.

Duty of municipal council in the levy of taxes.

Sec. 288. The municipal council of any such consolidated city and county shall perform such duties in and about the levy and equalization of state and county taxes, and all other matters and things as are or may be prescribed by law for boards of supervisors of counties in like cases, and not inconsistent with the provisions of this chapter.

### CHAPTER III.

#### MUNICIPAL CORPORATIONS OF THE SECOND CLASS.

(A charter for cities having a population of more than 30,000 and not exceeding 100,000.)

#### Article I.—General Powers.

Powers of municipal corporations of the second class.

Sec. 300. Every municipal corporation of the second class shall be entitled the city of — (naming it), and by such name shall have perpetual succession, may sue, be sued, in all courts and places, and in all proceedings whatever, shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit; provided, that it shall purchase without the city no property except such as shall be deemed necessary for establishing hospitals, prisons, cemeteries, and industrial schools.

## Article II.—General Provisions Relating to Officers.

## Election, when held.

Sec. 301. The municipal election shall be held on the second Monday of March of each even-numbered year, and such election shall be subject to all the provisions of the law regulating elections for state officers, except as otherwise provided in this chapter. At such election there shall be elected, for the government of the city the following officers: Seven councilmen, who shall constitute a board to be known as the city council; a mayor, a treasurer, who shall be ex officio clerk of the city council; a city attorney; a school superintendent, and a street superintendent, who shall respectively hold office for the term of two years; and until their successors are elected and qualified. One councilman shall be elected from each ward, by the vote of the city at large, and shall hold office for the term of two years, and until his successor is elected and qualified.

## Bonds.

Sec. 302. The clerk and treasurer, superintendent of public schools, street superintendent, and all other officers when required by the city council by ordinance, shall each, before entering upon his official duties, and within ten days after receipt of his certificate of election or appointment, execute a bond, in such sum as the council may direct, payable to the city; which bond shall be subject to the law concerning the official bonds of officers, and to approval by the mayor. And the council may at any time require an additional amount, or new sureties, upon any bond which it may deem insufficient. If such additional security be not given, the council upon notification thereof by the mayor, may, by vote of two-thirds of the members, declare the office vacant.

Fees, etc., to be paid into treasury.

Sec. 303. All fees, percentages, and all other moneys received or collected by any officer of the city, shall be paid by such officer, at the end of

each month, into the city treasury, for the use of the city; and no payment shall be made to any officer for salary until he shall have taken, and filed with the clerk, an affidavit that he has paid into the city treasury all fees, percentages, and all other moneys by him theretofore received or collected.

No city officer shall be surety on bond of any corporate officer.

Sec. 304. No member of the city council, or of the board of education, nor any officer of the city, shall be surety upon the official bond of any corporate officer, nor shall he be, directly or indirectly, interested with or be surety for any person who may be interested in any franchise, contract, appropriation, work, or business, or in the sale of anything the price of or consideration for which is paid or payable by the city, or by assessments levied under an ordinance of the council; nor shall any contract be awarded or franchise granted to any person who may be surety on the official bond of any officer of the city.

Vacancy, how filled.

Sec. 305. If any officer of such city, or member of the city council, or board of education, shall remove from the city, or absent himself therefrom for more than thirty days, or shall fail to qualify by taking the oath of office as prescribed by law, or to file his official bond, whenever such bond is required, within ten days from the time his election is duly ascertained and declared, his office shall be hereby absolutely vacated, and the city council shall thereupon fill the vacancy upon nomination by the mayor.

Oath of office.

Sec. 306. Every officer provided for in this chapter shall, before entering upon the duties of his office, take and file with the treasurer the constitutional oath of office; provided, that the oath of office of the treasurer shall be filed with the mayor.

Salaries.

Sec. 307. The salaries of the officers of such city shall be as follows: Mayor, one thousand dollars per annum; clerk and treasurer, two thousand dollars per annum; assistant to the clerk and treas-



urer, one thousand two hundred dollars per annum; clerk of the police court, one thousand two hundred dollars per annum; clerk to the police court, nine hundred dollars per annum; city attorney, two thousand dollars per annum; street superintendent one thousand eight hundred dollars per annum; captain of police, one thousand eight hundred dollars per annum; police detective, one thousand five hundred dollars per annum; school superintendent, two thousand dollars per annum; assistant school superintendent, one thousand two hundred dollars per annum; policemen, nine hundred dollars per annum each. The mayor may appoint a clerk, who shall receive a salary of nine hundred dollars per annum. The salaries of all officers shall be paid in monthly installments, at the end of each and every month of service.

### Article III.—Legislative Department.

#### Time of meeting.

Sec. 319. The city council shall meet on the first Monday after their election, and at such other times as they may by ordinance appoint. A majority of the council shall constitute a quorum for the transaction of business. They shall determine the rules of their proceedings, and judge of the qualification and election of all officers; and shall provide, by ordinance, the method of calling special meetings of the council. Their sittings shall be public. A journal of their proceedings shall be kept by the clerk, under their direction; and the ayes and noes shall be taken and entered on the journal at the request of any member. They shall prescribe, by ordinance, the duties of all officers whose duties are not defined in this act. They shall have the power to raise, by tax, not exceeding one per cent for all purposes (except for the redemption of bonds) on the assessed value of the real and personal property within the limits of such city, moneys for the establishment and support of free common schools, and to provide suitable grounds

and buildings therefor, and defraying the ordinary expenses of the city, as well as for paving, plank-ing, or otherwise improving the streets of the city. They shall also have power to pass all proper and necessary ordinances for the regulation and sale of city property, and to give deeds therefor. They shall have power to open, alter, establish, grade, or otherwise improve and regulate, streets, alleys, and lanes, and the sidewalks upon the same; to construct and keep in repair bridges, so as not to interfere with navigation, fences, public places, wharves, docks, ferries, piers, slips, sewers, and wells, and to make assessments therefor; to regulate and collect tolls, wharfage, dockage, and cran-age, upon all water-craft, and all goods landed; to make regulations for securing the health, cleanliness, ornament, peace, and good order of the city; for preventing and extinguishing fires, and ap-pointing and regulating firemen, policemen, and such other officers as may be necessary to appoint; for the care and regulation of prisons and markets; for licensing, taxing, and regulating all such vehi-cles, business, and employments as the public good may require, and as may not be prohibited by law; to levy a tax license upon all dogs, or otherwise prevent the same from running at large in the streets and public grounds of the city; to regulate and suppress all occupations, houses, places, amusements, and exhibitions which are against good morals, or contrary to the public order and decency; for the regulation and location of slaugh-terhouses, markets, stables, and gas-works, and houses for the storage of gunpowder and other combustible materials, and limit the quantity of combustible or explosive materials to be stored in any one place; for prohibiting or suppressing the erection of slaughter-houses, or the slaughtering of animals within the limits of the city, or for pro-hibiting or suppressing the erection or carrying on of any soap or glue factory, tan-yard, powder-mag-azine, or other nuisance within the limits of the city; and to declare what shall constitute a nu-isance; and to make and enforce within its limits all such local, police, sanitary, and other regula-tions as are not in conflict with general laws; and provide suitable buildings for the management,

good government, and general welfare of the city. They shall also have power to pass such ordinance or ordinances as may be necessary to prevent animals from running at large within the limits of the city; to establish a pound, and appoint a pound-keeper, and prescribe his duties, and to provide for the public sale, by the pound-keeper, of such animals as may be impounded, in the same way and upon like notice that personal property is sold by execution under the laws of this state; provided, that the owner or owners of such property so impounded may reclaim the same at any time before sale, upon payment of costs and charges of taking up and impounding; and, within thirty days after the sale, upon proof of ownership of the property sold, duly made before the mayor, and upon payment of the costs and expenses of impounding and selling, and upon the payment of the sum of one dollar to the mayor, as a fee for the investigation of the question of ownership, and for his certificate to that effect, such owner or owners may receive the purchase money arising from such sale or sales. Penalties for the violation of any and all ordinances shall be by fine not exceeding one hundred dollars, and in case the fine be not paid, then the person or persons may be imprisoned at the rate of one day for every two dollars of the fine imposed, or in lieu of the imprisonment, or any part of it, the person or persons so fined shall labor, under the direction of the city authorities, either upon the streets, public grounds, or buildings, or in such other places as may be deemed advisable for the benefit or revenue of said city. The city council, upon the nomination of the mayor, shall have power to appoint suitable persons to fill vacancies in any elective office, except that of mayor, until the next regular municipal election, when, if the term be unexpired, an election shall be held to fill such vacancy for the unexpired term of said offices. The members of the city council shall receive no salary for their services. They shall have power to provide for all city elections, to designate the place or places of holding the same, giving at least ten days' notice thereof; to appoint inspectors and judges of election, examine the returns, and de-

clare the result, and to determine contested elections. The president pro tempore of the board shall discharge the duties of mayor whenever there shall be a vacancy in the office of mayor, or when the mayor shall be absent from the city for a period exceeding five days, or be unable, from sickness, to attend to the duties of his office. In the absence of the clerk, the city council shall appoint one of their members to act as clerk pro tempore; they shall also have power to set aside any amount of money belonging to the city which may at any time be in the hands of the treasurer, after deducting the current expenses of the city, and the interest due upon the funded debts of the city, as a sinking-fund whereby the bonds issued by the city may be redeemed, or they may, at any time before said bonds shall become due, with any surplus money which may belong to the city, after paying said expenses and interest, redeem or purchase for the city, and in its name, in the manner most advantageous to the city, any outstanding bonds, which bonds or claims, when so purchased, shall be immediately canceled; provided, this right shall not affect the rights of the holders of said bonds, or in any way prevent them from holding the same until said bonds become due and payable; they shall also have the power to determine the width of sidewalks, and the material and manner of their construction, as well as the grade of the same; they shall also have the power to establish fire districts, and within said districts to prevent the erection of wooden buildings, or any buildings composed of combustible materials, and also to prevent the further repairing of wooden buildings within the fire limits established.

Further powers.

Sec. 320. Said council shall also have power:

Construction of sinks, etc.

1. To regulate the construction of sinks, gutters, wells, cess-pools and privy-vaults, and to compel the cleansing or emptying of the same, and the time and manner in which the work shall be done.

Anchorage of vessels, etc.

2. To regulate the anchorage of vessels within

the limits of the city, and to prevent obstructions to the free navigation of all navigable waters within the same.

Pollution of water.

3. To prevent persons from throwing into any stream, creek, bay, or other body of water within the limits of the city, from vessels, wharves, or other places any dirt, ballast, ashes, garbage, dead animals, or other materials that may obstruct the same or pollute the water thereof.

Open streets.

4. To open streets to the channel of any navigable stream or creek within the limits of the city, and to deep water to any navigable bay or lake within the same, and to construct and maintain public wharves at the ends of such streets.

Regulate location of boilers, etc.

5. To regulate the location of steam-boilers, the putting up of signs and awnings, and the construction of entrances to basements or cellars from the sidewalks.

License hacks, etc.

6. To establish hack-stands, and to regulate the rates of charges of hacks and other licensed vehicles, and to require a schedule of such charges, printed in conspicuous type and satisfactory to the council, to be posted in a conspicuous place in each hack or other licensed vehicle; provided, however, that the standing of hacks shall not be permitted on any street upon which railroads operated by steam shall be used.

To compel attendance of absent members.

7. To compel the attendance of absent members of said council at any of the meetings thereof, and to cause the arrest of any person for disorderly conduct at their meetings.

Regulate speed of railway engines.

8. To regulate the speed of railway engines in the city, and to require railroad companies to station flagmen at street crossings; to grant franchises permitting steam railroads upon any of the streets of the city; provided, that the same shall only be granted after two weeks' notice, previously published in some newspaper published in the city, and by ordinance passed by the vote of

two-thirds of the members elected to said council, approved by the mayor, and upon the previous petition, in writing, of the owners of two-thirds of the front feet of the lands upon the portion of the street to be so used.

Regulate entrance to and from theaters, etc.

9. To regulate the means of entrance to and exit from theaters, lecture-rooms, public halls, and churches, and to prohibit the placing of chairs, stools, benches, or other obstructions in the aisles of such building.

Railway companies to keep certain streets in repair.

10. To require railroad companies to keep the street in repair between the tracks and along and within the distance of two feet upon each side of the track occupied by the company.

License certain property and business.

Sec. 321. They shall also have the exclusive right, in the manner prescribed by ordinance, of issuing and granting licenses, and of collecting tax licenses for the benefit of the city, upon the following business and property, to wit: upon each and every person within the limits of the city who shall vend any goods, wares or merchandise, wines, distilled or fermented liquors, drugs, medicines, jewelry, or wares of precious metals; upon persons who keep horses or carriages for rent or hire; upon persons keeping billiard tables for hire, bowling-alleys, and shooting-galleries; also upon all taverns, inn-keepers, and upon all persons who may sell or dispose of any malt, spirituous or fermented liquors or wines in less quantities than one quart; and the said licenses shall be issued quarterly or yearly; also upon any person within the limits of the city, who shall keep a stallion, jack, bull, or ram, and who shall permit the same to be used for the purpose of propagation for hire or profit, which license shall be a yearly license; all of which licenses, when granted by such city and duly obtained by the person or persons desiring the same, shall entitle them to carry on such business, trade, or profession in such city.



### Sales and leases of city property.

Sec. 322. All sales or leases of property belonging to the city shall be by public auction to the highest bidder, and upon such terms and conditions as the council may by ordinance direct; and all contracts for supplies, of any kind, for more than five hundred dollars, shall be let to the lowest responsible bidder, after ten days' notice given by posting the same in three of the most public places in the city, or by publishing the same in any newspaper printed and published in such city.

### Licenses.

Sec. 323. Licenses shall be discriminating and proportionate to the amount of business; and it shall be the duty of the council, by ordinance, to classify all kinds of business licensed in accordance herewith.

### Ordinances.

Sec. 324. The enacting clause of all ordinances shall be as follows: "The Mayor and council of the city of — do ordain as follows." Every ordinance passed by the city council shall be presented to the mayor for his approval; if he approve it, he shall sign it; if not, he shall return it at the first meeting of the council held after five days thereafter, or at its next meeting; when the city council shall reconsider such ordinance, and if the same be approved by a vote of two-thirds of all the members elected, and not otherwise, the same shall take effect and stand as an ordinance of such city. All ordinances shall be published for one week in a newspaper printed and published in such city, as often during such period as such newspaper shall be published.

### Fixing rate of taxation.

Sec. 325. The council shall, upon the first Monday of October in each year, fix the rate of taxation to be levied upon all property, both real and personal, in said municipality necessary to raise sufficient revenue to carry on the various departments of the city government for the then ensuing year, not to exceed one dollar for each one hundred dollars upon the assessment roll, and to pay the bonded and other indebtedness of said city. The said council must, upon fixing said amount,

transmit a statement thereof to the county auditor. The action of the city council in fixing the rate of taxation for city purposes is a valid levy of the rate so fixed upon all property, both real and personal, in the said city, and borne upon the assessment roll of said county, and has the effect provided in sections three thousand seven hundred and sixteen, three thousand seven hundred and seventeen, and three thousand seven hundred and eighteen of the Political Code, in regard to state and county taxes. The county auditor shall thereupon compute and enter, in a separate money column in the assessment-book, the respective sums, in dollars and cents, rejecting the fractions of a cent, to be paid as a tax on the property therein enumerated, for the purposes of such city government, and foot up the column, showing the total amount of such taxes. The taxes so levied and computed shall be collected at the same time and in the same manner as state and county taxes; and when collected, shall be paid into the county treasury for the use of said city; provided, that any property sold for such taxes shall be subject to redemption within the time and in the manner provided, or that may hereafter be provided, by law, for the redemption of property sold for state or county taxes. All deeds made upon any sale of property for taxes or special assessments, under the provisions of this chapter, shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state or county taxes. The county treasurer must, at any time upon the demand of the city treasurer and mayor, settle with the city treasurer, and pay over to him all moneys in the county treasury belonging to such city, taking the receipt of the mayor and city treasurer therefor. The county treasurer shall receive, as compensation for all services rendered under this section as tax collector and treasurer, one-third of one per cent of all moneys collected and paid over to the city treasurer, but not to exceed in all one thousand dollars per annum. The county treasurer and tax collector shall be liable on his official bond for all moneys received by him under the provisions of this section.

Vote by yeas and nays in certain cases.

Sec. 326. In all matters before the city council concerning the granting of franchises, letting of contracts, auditing of bills, ordering of work to be done or supplies to be furnished, or whatever may involve the payment of money, or incurring of debt by the city, the vote shall be by yeas and nays, and be recorded in the journal.

Restriction on members.

Sec. 327. No member of the city council shall vote in the council upon any motion, resolution, or ordinance, in favor of any franchise, contract, bill, award, or appropriation, in which he may have any pecuniary interest, present or prospective.

Debts.

Sec. 328. The city council shall not create, allow or permit to accrue any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes; nor shall any warrant be drawn or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinafter provided.

Debt, how incurred and paid.

Sec. 329. If, at any time, the city council shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purpose for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund, as hereinafter provided. Such notice shall be published for at least three weeks in some newspaper published in such city, as often during said period as said newspaper shall be published; and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appear that not less than two-thirds of

all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the city council to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and an annual tax shall be levied and collected upon all the real and personal property subject to taxation within such city, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the city council, in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be exclusively appropriated to the payment of the principal and interest of such indebtedness, and the city treasurer shall be liable upon his official bond for any part of said fund otherwise used or appropriated.

#### Separate fund.

Sec. 330. It shall be the duty of the city council before levying the annual city tax, to establish, by ordinance, separate funds, representing the several funded obligations of the city, if any, and the several departments requiring municipal expenditures, including a general fund, and the percentage of said levy shall be named for each fund, and the whole amount of taxes and revenues of the city apportioned accordingly, and no transfer shall be made except of balances in excess, or from the general fund to meet deficiencies, or to provide for the redemption of city bonds.

#### Bonded indebtedness, how paid.

Sec. 331. Any city having a bonded indebtedness, contracted under laws heretofore passed, shall levy such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, in addition to the taxes herein authorized to be levied. All moneys received from licenses, and from fines, penalties, and for forfeitures, shall be paid into the general fund.

Opening new streets.

Sec. 332. The city council shall have power, upon the payment of just compensation, to lay out and open new streets, lanes, alleys, courts, and places within the corporate limits of the city, but shall have no power to subject the city to any expense therefor, except for the necessary expense of surveying and mapping out the same, and when said streets are so laid out and opened, the provisions of this chapter shall be applicable thereto.

License on common carriers.

Sec. 333. The city council of said city shall have power to issue and collect an annual tax license on draymen, cabmen, omnibus proprietors, expressmen, and other common carriers doing business in the city, the proceeds of said licenses to be devoted to a street-department fund for keeping in repair the streets in the city. Said annual license not to be more than twelve dollars nor be less than eight dollars for such persons so licensed.

Widening streets.

Sec. 334. The city council is empowered to open, extend, and widen streets, and to modify the boundaries thereof within its corporate limits, and to determine the property benefited thereby, and to assess the expenses of such improvement upon the property benefited, as hereinafter provided.

Proceedings, how commenced.

Sec. 335. All proceedings under said power shall be commenced by petition of five or more residents and freeholders within the city, signed by the petitioners, addressed to the city council, and filed with the clerk of said council. Such petition shall contain:

1. The names of the petitioners, and a statement that each of the petitioners is a resident and freeholder within the city;

2. A statement that, in the opinion of the petitioners, the public interests require that the improvement asked for (describing it generally) should be made;

3. A request that the council proceed to order the improvement made.

### Duty of council.

Sec. 336. At the regular meeting next after the meeting at which the petition is presented to the council, or at any subsequent meeting to which the proceedings may be regularly adjourned, the said council may, by resolution duly passed, determine the lands to be benefited by the improvement asked for in the petition, and to be assessed for the expenses thereof. Said resolution shall contain a description of each lot, piece, or parcel of land necessary to be taken and condemned for such improvement, and shall also specify the exterior boundaries of the district of land benefited thereby, and to be assessed therefor, and shall direct the city engineer to make a survey and map of the lands described in the resolution, a copy of which resolution shall be forthwith transmitted by the clerk of said council to the said city engineer.

### Duty of city engineer.

Sec. 337. It shall be the duty of the city engineer, immediately upon receiving a copy of the resolution mentioned in section four, to survey the lands described in said resolution and make a map thereof, and to return said map to said council within twenty (20) days from the receipt by him of said copy of the resolution; said map shall show each piece, tract, or parcel of land necessary to be taken and condemned for said improvement, and also the exterior boundaries of the districts to be benefited by such improvement and to be assessed on account of the cost and expenses thereof, as declared in the resolution, and the area thereof, exclusive of public streets and alleys. Said city engineer shall have the right to enter upon the lands and make examinations and surveys thereof, and such entry shall constitute no cause of action in favor of the owners of said lands, except for injuries resulting from negligence, wantonness, or malice.

### Preliminary resolution.

Sec. 338. The council, at its regular meeting next after the return of the map by the city engineer, shall pass a preliminary resolution, declaring the intention of the corporation to make the improvement asked for in the petition. Said reso-



lution shall contain a description of each piece, lot, or tract of land necessary and sought to be taken, and condemned for the improvement, and also the exterior boundaries of the district of lands to be benefited thereby, and assessed for the expenses thereof; the resolution shall also specify a time, not more than fifteen (15) days from the passage thereof, for the hearing by said council of objections to the proposed improvement, and said resolution shall be published in at least one daily paper printed and circulated in the city, daily (Sundays and non-judicial days excepted), for at least ten (10) days prior to the time fixed for said hearing.

#### Objections.

Sec. 339. If a majority of the owners of the lands in area to be assessed for the expenses of said improvement shall, on or before the day fixed by said resolution for the hearing of objections, appear and protest against said improvement, the proceedings shall be discontinued; provided, however, that such protest must be in writing, and shall contain a description of the land claimed by each protestant; and provided further, that the council may, by a unanimous vote of all its members, approved by the mayor, proceed to cause such improvement to be made, notwithstanding such protest.

#### Final resolution.

Sec. 340. If the owners of a majority in the area of the property to be assessed for the expenses of said improvement fail to appear and protest as provided in section seven, or if the council, by a unanimous vote, approved by the mayor, order said improvement to be made, said council must immediately pass a final resolution, declaring such determination. Such resolution shall refer to the said preliminary resolution, by its number, for a description of the lands necessary and sought to be taken and condemned for said improvement, and the district to be assessed for the expenses thereof.

#### Commissioners to assess damages.

Sec. 341. Immediately after the passage of such final resolution, the council shall apply to the su-  
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perior court of the county in which such city is situated, either in term-time or vacation, by petition, for the appointing of three commissioners to assess the compensation which shall be paid to the owners thereof for the lands sought to be taken for such improvement, and to assess upon the property within the district to be benefited thereby the costs of such improvement. Said petition shall recite all the proceedings had in the premises, and shall specify the exterior boundaries of the lands sought to be taken, and also the exterior boundaries of the district of lands to be benefited thereby, and assessed for the expenses thereof. A copy of the map made by the city engineer shall be annexed to said petition, and may be referred to in the petition for a description of the lands aforesaid.

#### Duty of court.

Sec. 342. Upon filing such petition, such court shall pass and take such jurisdiction of such proceeding, and such court, or a judge thereof, shall, by order, fix a day for the hearing of such petition, which shall not be less than ten, nor more than twenty days from the date of such order. Such order shall further direct notice of the time and place of such hearing to be given by the clerk by publication in two daily newspapers published in such city, and designated in such order, for at least a period of ten days in succession.

#### Requisites of notice.

Sec. 343. Such notice shall specify the exterior boundaries of the lands sought to be taken for such improvement, and of the lands declared to be profited thereby and to be assessed for the expenses thereof, and shall further state that the damages to which the owner or owners of the land sought to be taken may be entitled for the same will be inquired into and determined, and that such damages, together with the cost of the proceedings for the acquiring title to such lands, and making apportionment thereof, will be apportioned and assessed upon the lands to be benefited thereby, by commissioners to be appointed by such court, on the day fixed by such order for the hearing. Such notice shall be published daily for at

least ten days (Sundays and non-judicial days excepted) before such hearing.

#### Hearing.

Sec. 344. At the time fixed for the hearing, or at such other time as the hearing may be adjourned to, the court shall proceed to hear any person interested touching the regularity of the proceedings, and if satisfied that the proceedings have been regular, shall appoint three competent and disinterested commissioners. The court may, at any time, remove any or all such commissioners for cause, upon reasonable notice and hearing, and may fill the vacancies occurring among them from any cause. Any persons interested may object to the appointment of any person as commissioner, on one or more of the grounds specified in section six hundred and forty-one of the Code of Civil Procedure, as grounds for the objection to the appointment of persons as referees.

#### Duty of commissioners.

Sec. 345. Commissioners shall be sworn to faithfully perform their duties according to the provisions of this chapter. They shall then proceed to view the lands mentioned and described in such resolution and petition, and may examine witness on oath, to be administered by any one of them, and shall keep minutes of the testimony so taken; they shall ascertain and appraise the value of the property sought to be taken for the improvements, and of all improvements thereon partaking of the realty, and of each and every estate therein; if it consists of different parcels, the value of each parcel and each estate, or interest therein, shall be separately appraised; if this property sought to be taken constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned or taken, by reason of the severance from the portion sought to be taken, and the construction of the improvement in the manner proposed shall be appraised by said commissioners; they shall also ascertain and determine, as near as may be, the entire costs of the proceedings for the opening, extension, or improvement aforesaid, including the costs of court

and of commissioners; they shall then proceed to apportion and assess the whole amount of such costs and expenses, value of property sought to be taken, and damages to property not taken, upon the property within the district declared by the resolution of the council to be benefited by said improvement, and shall assess each tract, lot, piece, or parcel of land within said district in proportion to the benefits received by it from said improvement.

#### Report.

Sec. 346. The said commissioners, within a time to be fixed by the court, shall make a report of their proceedings, under their hands, or the hands of a majority of them, to the said court, in which report they shall describe, with common certainty, the several parcels of land sought to be taken for such improvement, and the names of the owners thereof, respectively, so far as they can be ascertained, designating unknown owners, if any such there be, and the sum of money which should be paid to each of said owners, as his or her compensation for the land necessary and sought to be taken and condemned for such improvement, or of his or her estate, therein; and in case only a part of a larger parcel has been taken for such improvement, and the remaining portion is damaged or benefited thereby, they shall describe such remaining portion, and specify the sum to be paid or assessed to the owner thereof, or such damages or benefits as the case may be; they shall also describe, with common certainty, the several parcels of land within the district deemed to be benefited by said improvement, and the names of the owners thereof, so far as they can be ascertained, designating unknown owners, if such there be, and the sum of money which is assessed upon each particular parcel, and which should be paid by the owner thereof.

#### Objections.

Sec. 347. Upon the filing of such report, the said court shall, by order, fix a day for hearing objections to the confirmation thereof, and shall direct notice of the time and place of said hearing to be given by the clerk, by publication in a daily news-

paper published in said city, for at least ten days (Sundays and non-judicial days excepted), prior to said day of hearing.

#### Hearing report.

Sec. 348. Upon the day fixed for the hearing, the court shall proceed to hear any person interested upon any question touching the regularity of the proceedings, the sufficiency of the compensation awarded, or the justice or equality of the assessment, and may confirm said report or set the same aside, or remand the same for correction or alteration in any particular. If the report be set aside, the matter may in like manner be referred to the same or new commissioners appointed by the court, who shall proceed as hereinbefore provided; if the report be remanded, it shall be corrected or altered in any particular required by the court.

#### Compensation of commissioners.

Sec. 349. The commissioners shall be entitled to reasonable compensation for their services, to be certified to by the court, and taxed as part of the expenses of the proceeding.

#### Judgment, what to contain.

Sec. 350. Upon confirmation of the report of the commissioners, judgment shall be rendered by the court thereon, which judgment must describe each parcel of land taken for such improvement, and the amount to which the owner is entitled as compensation or damages for the taking thereof, and the name of such owner or owners, if known, and in case only a portion of a larger parcel is taken, such judgment must describe such remaining portion, and the amount, if anything, to which the owner thereof is entitled as damages; and must also describe each parcel of land assessed for the expenses of such improvement, and the amount so assessed upon each parcel respectively. Such judgment shall direct a sale of each parcel so assessed, or so much thereof as may be necessary to pay the amount of such assessment and expenses of sale, and the application of the proceeds of such sale to the payment of the expenses of such sale, and the amount of compensation and damages awarded by such judgment. Such judg-

ment shall be a lien upon the property against which such assessment is made, and may be enforced by a sale of the property assessed, as hereinafter provided.

#### Enforcement of judgment.

Sec. 351. Within thirty days after the entry of such judgment, the persons liable must pay to the clerk of the court, for the benefit of the parties entitled thereto, the several amounts specified in such judgment, in default of which the respective parcels of land upon which such assessments have not been paid shall be sold by the sheriff of such county under a certified copy of such judgment, and in the manner provided by law for the sale of property upon decree of foreclosure of mortgage.

#### Money, to whom paid.

Sec. 352. The moneys realized from such sale shall be paid by the officer making the same, to the clerk of the court, for the benefit of the parties entitled thereto.

#### Final order.

Sec. 353. Whenever the aggregate amount of damages or compensation awarded by such judgment shall have been paid to the clerk, either by voluntary payment or as moneys realized from sales under such judgment, the court must make and enter a final order or decree of condemnation of the lands taken for such improvement, which order or decree shall describe the property condemned and the purpose of such condemnation.

#### When title vests.

Sec. 354. A copy of such order or decree must be filed in the office of the recorder of such county, and thereupon, the property described therein shall vest in such city for the uses and purposes therein specified, and such city shall be entitled to and may take immediate possession thereof.

#### Payment of awards.

Sec. 355. Whenever the aggregate amount of damages or compensation awarded by such judgment shall have come to the hands of the clerk, he shall, upon the demand of any person entitled



thereto, pay to said party the amount awarded to him or her by said judgment.

Where more than one claimant.

Sec. 356. If there is more than one claimant to any parcel of land taken for such improvement, or if the owner of any parcel is unknown, the amount awarded as damages or compensation for the taking thereof shall remain in court to be awarded to the true owner by due process of law.

Appeal.

Sec. 357. Any party feeling aggrieved by any proceedings, orders, or judgments of such court herein provided for may appeal to the supreme court, as in other cases.

Appointment of police.

Sec. 358. The city council shall not have power to appoint a greater number of policemen than shall be equal to one for every one thousand of the population of such city. No policeman or member of the fire department shall be removed from office except upon the order and direction of the mayor, and after charges in writing have been made against him, and evidence upon the same shall have been heard in public in the mode and manner to be prescribed by ordinance.

Supply of gas and water.

Sec. 359. All gas and water pipes laid in any paved, macadamized, or graded street must be of sufficient capacity to afford a free supply of gas or water for the estimated necessities of such street, and the district to be supplied by such pipes, for a period of not less than five years from the time of laying the same; which estimate of necessity and capacity shall be made by the city engineer, and approved by the council. It shall be the duty of the council, by ordinance, to prescribe regulations for the laying of gas and water pipes in the public streets.

#### Article IV.—Executive Department.

Duty of mayor.

Sec. 370. The mayor shall preside at all meetings of the city council, but the council shall elect

a president pro tempore to preside during his absence. He shall communicate to the council semi-annually, or oftener if necessary, a general statement of the situation and condition of the city, together with such recommendations relative thereto as he may deem expedient. He shall be vigilant and active in causing the ordinances of the city to be executed and enforced. He shall be the head of police, and shall exercise a supervision and control over the conduct of all subordinate officers, and receive and examine into all complaints preferred against any of them for violation or neglect of duty, and certify the same to the council. He shall sign all ordinances and contracts made on behalf of the city, and countersign all licenses and warrants on the treasury. He shall keep accounts current with every officer charged with the receipt or disbursement of money, and perform all the duties of an auditor. He shall perform such other duties as may be prescribed by law or ordinance.

#### Allowance of demands.

Sec. 371. Every demand upon the treasury, except for the salary of the mayor, must, before it can be paid, be presented to the mayor, to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of the city is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "allowed," with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the mayor, or of the city council, or of any other board or officer, of any demand which upon the face of it appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the treasurer or other disbursing officer for paying the same. The demand of the mayor for his salary shall be audited and allowed by the president pro tempore of the city council.

#### Duty of chief of police.

Sec. 372. The chief of police shall execute, within the city, and return all process issued and di-

rected to him by the city justices or either of them; arrest all persons guilty of a breach of the peace, or of a violation of any ordinance of the council, and take them before the proper magistrate within the city; and do and perform such other duties as may be prescribed by ordinance or may be required by the mayor.

#### Effect of records of street superintendent.

Sec. 373. The records kept by the street superintendent of the city, and signed by him, shall have the same force and effect as other public records, and copies therefrom, duly certified, may be used in evidence with the same effect as the originals. The said records shall, during all office hours, be open to the inspection of any citizen wishing to examine them, free of charge.

#### Office of street superintendent.

Sec. 374. The street superintendent shall keep a public office in some convenient place to be designated by the city council, and such records as may be required by law. He shall superintend and direct the cleaning of all the sewers in the public streets, and the expense of the same shall be paid out of the street-department fund, and perform all duties required by law or ordinance of such city.

#### Duty of street superintendent.

Sec. 375. It shall be the duty of the street superintendent to see that the laws, orders, and regulations relating to the public streets and highways are fully carried into execution, and that the penalties therefor are regularly enforced. He shall keep himself informed of the condition of all public streets and highways, and also of all public buildings, parks, lots, and ground of the city, as may be prescribed by the council; and should he fail to see the laws, orders, and regulations relative to the public streets and highways carried into execution, after notice from any citizen of a violation thereof, he and his sureties shall be liable upon his official bond to any person injured in person or property in consequence of such neglect.

#### No recourse on city for certain damages.

Sec. 376. If, in consequence of any graded street or public highway, improved under the provisions of this chapter, being out of repair, and in a con-

dition to endanger persons or animals passing therein, any person while carefully using such street or public highway, and exercising ordinary care to avoid such danger, suffer damage to his person, or if any animals or other property, being lawfully ridden, driven, or conveyed through such street or public highway, be injured, lost, or destroyed through any such defect therein, no recourse for damages thus suffered shall be had against the city; but if such defect in such street or public highway shall have existed for a period of twenty-four hours or more after notice to the street superintendent, then the street superintendent, and also all other officers through whose official negligence such defect shall have remained unrepaired, shall jointly and severally be liable to the party injured for the damages so sustained. City engineer, appointment of, and duties.

Sec. 377. The city council shall have power to appoint a city engineer, and by ordinance to prescribe his duties and fix his compensation, not to exceed one thousand eight hundred dollars per annum. It shall be the duty of the city engineer to do the surveying and other work necessary to be done by law or any ordinance of said city, and to survey, measure, and estimate the work done and to be done under contracts for grading streets; and every certificate of work done by him, signed in his official capacity, shall be prima facie evidence in all the courts of this state of the truth of its contents; he shall also keep a record of all surveys made by him.

Duties of treasurer.

Sec. 378. The treasurer shall receive and pay out all moneys belonging to the city, and keep an account of all receipts and expenditures, under such regulations as may be prescribed by ordinance; he shall make a monthly statement to the council of the receipts and expenditures of the preceding month, and in his capacity as city clerk he shall keep all the papers and documents belonging to the city, attend the meetings of the council and keep a journal of their proceedings, and a record of all their ordinances, and shall do all things required of him by ordinances.

### Reports of officers.

Sec. 379. It shall be the duty of the several elected and appointed officers of said city, whenever required by the city council, to make reports to the said council, and in the manner required of them, and in their reports to embody all the matters and information required pertaining to the duties of their respective offices.

### Other necessary affairs.

Sec. 380. The city council may provide by ordinance for the election or appointment of any other officer or officers necessary for the good government of the city, and the proper administration of the public interest, and shall prescribe their duties and terms of office, and fix their compensation.

## Article V.—Judicial Department.

### Police court.

Sec. 390. The judicial power of the city shall be vested in a police court, to be held therein by the city justices, or one of them, to be designated by the mayor, but either of said city justices may hold such court without such designation, and it is hereby made the duty of such city justices, in addition to the duties now required of them by law, to hold said police court.

### Jurisdiction.

Sec. 391. The police court shall have exclusive jurisdiction of the following public offenses committed in the city:

1. Petit larceny;
2. Assault or battery, not charged to have been committed upon a public officer in the discharge of official duty, or with intent to kill;
3. Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors punishable by fine or by imprisonment, or by both such fine and imprisonment;
4. Of proceedings respecting vagrants, lewd or disorderly persons.

**Jurisdiction.**

Sec. 392. Said court shall also have exclusive jurisdiction of all proceedings for violation of any ordinance of said city, both civil and criminal, and of an action for the collection of any license required by any ordinance of said city.

**Justices inhibited in certain cases.**

Sec. 393. Neither of said justices shall sit in cases in which he is a party, or in which he is interested, or where he is related to either party by consanguinity or affinity within the third degree, and in case of the sickness or inability of the city justices, either of them may call in a justice of the peace residing in the county to act in his place and stead.

**Powers of justices.**

Sec. 394. Each of the city justices, while acting as judge of said court, shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the proper court, and may try, condemn, or acquit, and carry his judgment into execution as the case may require, according to law, and punish persons guilty of contempt of court; and shall have power to issue warrants of arrests in case of a criminal prosecution for a violation of a city ordinance, as well as in case of the violation of the criminal law of the state; also all subpoenas, and all other processes necessary to the full and proper exercise of his powers and jurisdiction; and in such of the cases enumerated in this section, in which trial by jury is not secured by the constitution of the state, he may proceed to judgment in the first instance without a jury, but on appeal the defendant shall be entitled to trial by jury in the superior court.

**Clerk of court.**

Sec. 395. The police court shall have a clerk, to be appointed by the city council, upon the nomination of the mayor, who shall hold office during the pleasure of the council. The clerk shall keep a record of the proceedings of and issue all process ordered by the city justices, or either of them, or by said police court, and receive and pay weekly into the city treasury all fines imposed by said



court. He shall also each month render to the mayor (as auditor) an exact and detailed account, upon oath, of all fines imposed and collected, and all fines imposed and uncollected, since his last report. He shall prepare bonds, justify bail, when the amount has been fixed by either of the city justices or said court, in cases not exceeding one hundred dollars, and may administer oaths. The clerk shall remain at the court-room of said court during business hours, and during such reasonable times thereafter as may be necessary for discharging his duty. Before receiving his salary, each or any month, he shall make and file with the auditor an affidavit that he has deposited with the city treasurer all moneys that have come to his hands belonging to the city. Any violation of this provision shall be a misdemeanor. He shall give a bond in the sum of five thousand dollars, with at least two sureties to be approved by the mayor, conditioned for the faithful discharge of the duties of his office.

Disposition of moneys.

Sec. 396. All fines and other moneys collected on behalf of the city in the police court shall be paid into the city treasury on the first Tuesday of each month; and all bills for fees and costs due the officers of said court shall be reported to the city council each month.

Dockets.

Sec. 397. The city council shall furnish a suitable room for the holding of said court, and shall also furnish the necessary dockets and blanks. One docket shall be styled "The city criminal docket," in which all the criminal business shall be recorded, and each case shall be alphabetically indexed; another docket shall be styled "The city civil docket," and it shall contain each and every civil case in which the city is a party, or which is prosecuted or defended for her interest, and each case shall be properly indexed. A third docket shall contain all the other business appertaining to the office of said city justice, and in all cases the docket shall contain all such entries as are required by law to be made in justices' dockets; and in any case tried before the court, the docket

must show what duties were performed by any officer of the court, and the amount of the fees due to the officer for such services, and what amount of money, if any, collected.

Court, when open.

Sec. 398. The police court shall be always open, except upon non-judicial days, and then for such purposes only as by law permitted or required of other courts of this state.

Appeals.

Sec. 399. Appeals may be taken from any judgment of said police court, to the superior court of the county in which such city may be situated, in the same manner in which appeals are taken from justices' courts in like cases.

Place of imprisonment.

Sec. 400. In all cases of imprisonment of persons convicted in said police court of any offense committed in the city, the persons so to be imprisoned, or by ordinance required to labor, shall be imprisoned in the city jail, or if required to labor, shall labor in the city.

Seal.

Sec. 401. Said court shall have a seal, to be furnished by the city.

Monthly report.

Sec. 402. The city justices shall, on the first Tuesday of each month, make to the city council a full and complete report of all the cases, civil and criminal, in which the city has an interest, or which are required to be entered in the city civil docket, or the city criminal docket; such report to be made upon blanks to be furnished by the city council, and in such form as they may require.

Transcripts and warrants.

Sec. 403. Certified transcripts of the dockets, made by the clerk of said court, under the seal of said court, shall be evidence in any court of this state of the contents of said docket; and all warrants and other process issued out of said court, and all acts done by said court, and certified under its seal, shall have the same force and validity in any part of this state as though issued or done by any court of record of this state.

## Article VI.—Educational Department.

## Board of education.

Sec. 410. The government of the school department of the city shall be vested in a board of education, to consist of seven members, to be called school directors. One school director shall be elected from each ward at the regular municipal election, by the vote of the city at large, and shall hold office for the term of four years, and until his successor is elected and qualified; provided, that the first board of education elected under the provisions of this chapter shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of two years, and four at the expiration of four years.

## Organization.

Sec. 411. The board of education shall meet on the first Monday after their election, and elect one of their number president, and shall hold meetings at least once in each month thereafter at such times as shall be determined by a rule of said board. A majority of all the members elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. The board may determine the rules of its proceedings. Its sessions shall be public, and its records shall be open to public inspection. The board shall also have power to fill all vacancies occurring in the board until the next regular municipal election.

## Power of board.

Sec. 412. The board of education shall have sole power:

1. To establish and maintain public schools, and to establish school districts, and to fix and alter the boundaries thereof.

## Employees.

2. To employ and dismiss teachers, janitors, and school-census marshals, and to fix, alter, allow and order paid their salaries or compensation,

and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers and duties of the board, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

#### Regulation of schools.

3. To make, establish, and enforce all necessary and proper rules and regulations, not contrary to law, for the government and progress of public schools within the city, the teachers thereof, and the pupils therein, and for carrying into effect the laws relating to education; also to establish and regulate the grade of schools, and determine what text-books, courses of study, and mode of instructions shall be used in said schools.

#### Supplies.

4. To provide for the school department of the city fuel and lights, water, blanks, blank-books, printing and stationery, and to incur such other incidental expenses as may be deemed necessary by said board.

#### Building and repairs.

5. To build, alter, repair, rent, and provide school-houses, and furnish them with proper school furniture, apparatus, and appliances, and to insure any and all such school property.

#### To hold property in trust.

6. To receive, purchase, lease, and hold in fee, in trust for the city, any and all real estate, and to hold in trust any personal property that may have been acquired, or may hereafter be acquired, for the use and benefit of the public schools of the city; provided, that no real estate shall be bought, sold, or exchanged, or expenditures incurred for the construction of new school-houses without the consent of four members of the board of education and four members of the city council; and provided further, that the proceeds of any such sale or exchange of real estate shall be exclusively applied to the purchase of other lots, or the erection of school-houses; and the city council of the city is hereby authorized and required to make over to said board of education, upon appli-

cation in writing by said board, through its president and secretary, by good and sufficient deeds of conveyance, all property, both real and personal, now held by said city council in trust for the city for the use and benefit of the public schools; and the said board is hereby authorized to defray all expenses attending the same.

To improve property.

7. To grade, fence, and improve all school lots, and in front thereof to grade, sewer, plank, or pave and repair streets, and to construct and repair sidewalks.

To sue and defend.

8. To sue for any and all lots, land and property belonging to or claimed by the said school department, and to prosecute and defend all actions at law or in equity necessary to recover and maintain the full enjoyment and possession of said lots, lands, and property.

To estimate money needed.

9. To determine annually the amount of money required for the support of the public schools, and for carrying into effect all the provisions of law in reference thereto; and in pursuance of this provision the board shall, on or before the first Monday in February of each year, submit in writing to the city council a careful estimate of the whole amount of money to be received from the state and county, and the amount required from the city for the above purposes, and the amount so found to be required from the city shall, by the city council, be added to the other amounts to be assessed and collected for city purposes; provided, that the amount to be thus assessed for school purposes shall not exceed thirty cents on each one hundred dollars valuation upon the assessment roll, but may be increased to forty cents by consent of two thirds of the city council, and that when collected it shall be immediately paid into the school fund, to be drawn out only upon the order of the board of education.

Disbursements.

10. To establish regulations for the just and equal disbursement of all moneys belonging to the public school fund.

### **Demands.**

11. To examine and allow, in whole and in part, every demand payable out of the school fund, or to reject any such demands for good cause.

### **Incumbrances.**

12. To discharge all legal incumbrances now existing, or which may hereafter exist, upon any school property.

### **Age limit.**

13. To prohibit any child under six years of age from attending the public schools.

### **Other acts.**

14. And generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said board, and to increase the efficiency of the public schools in said city.

### **Oaths on demands.**

Sec. 413. The president of the board of education shall have power to administer oaths and affirmations concerning any demand upon the treasury payable out of the school fund, or other matters relating to his official duties.

### **Contracts.**

Sec. 414. All contracts for building shall be given to the lowest bidder therefor offering adequate security, to be determined by the board, after due public notice published for not less than ten days in one daily paper of the city.

No director or superintendent to be a party.

Sec. 415. No school director or superintendent shall be interested in any contract pertaining in any manner to the school department of said city. All contracts in violation of this section are declared void, and any director or superintendent violating or aiding in violating the provisions of this section shall be deemed guilty of misdemeanor, and shall be punished by fine of not less than one hundred dollars nor more than one thousand dollars.

### **City board of examiners.**

Sec. 416. No teacher shall be employed in any of the public schools without having a certificate issued under the provisions of this chapter. For



the purpose of granting the certificates required, the board of education shall appoint a city board of examination. The city board of examination shall consist of the school superintendent and four other persons, residents of such city, at least two of whom shall be experienced teachers. The members of the city board of examination shall receive for their services such compensation as may be fixed by the board of education. Such city board of examination shall have power:

#### **Rules.**

1. To adopt rules and regulations not inconsistent with the laws of this state for its own government, and for the examination of teachers.

#### **Examination.**

2. To examine applicants, and to prescribe a standard of proficiency which will entitle the person examined to a certificate.

#### **Certificates.**

3. To grant city certificates of three grades;

1. High-school certificates, valid for six years, and authorizing the holder to teach any primary, grammar, or high school in such city;

2. City certificates, first grade, valid for four years, and authorizing the holder to teach any primary or grammar school in such city;

3. City certificates, second grade, valid for two years, and authorizing the holder to teach any primary school in such city.

4. Without examination, to grant certificates and fix the grade thereof to the holders of state life diplomas, state educational diplomas, state normal-school diplomas, state university diplomas (when recommended by the faculty of the university), state certificates, city certificates granted in other cities of this state, and life diplomas, and state normal-school diplomas of other states;

5. To revoke or suspend for immoral or unprofessional conduct, profanity, intemperance, or evident unfitness for teaching, any certificate granted by them.

#### **Secretary.**

Sec. 417. The school superintendent shall act as secretary and book-keeper of the board of edu-

cation, and perform all clerical duties required by such board. In the absence of the superintendent, the board of education may appoint one of their own number to act as secretary. The school superintendent may appoint an assistant at a salary of one hundred dollars per month. The superintendent may, for a good and sufficient cause, provisionally suspend any teacher employed in the schools of such city until the next meeting of the board of education.

#### Superintendent's reports.

Sec. 418. The superintendent shall report to the board of education annually, and at such other times as they may require, all matters pertaining to the expenditures, income and condition and progress of the public schools of said city during the preceding year, with such recommendations as he may deem proper.

#### Duty of superintendent.

Sec. 419. It shall be the duty of the superintendent to visit and examine each school at least once a month, to observe, and cause to be observed, such general rules for the regulation and government and instruction of the schools, not inconsistent with the laws of the state, as may be established by the board of education; to attend the sessions of the board, and inform them at each session of the condition of the public schools, school-houses, school fund, and other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in the city. He shall acquaint himself with all the laws, rules, and regulations governing the public schools in said city, and the judicial decisions thereon, and give advice on subjects connected with the public schools, gratuitously, to officers, teachers, pupils, and their parents and guardians.

#### Vacancy.

Sec. 420. In case of vacancy in the office of superintendent, the board of education shall have power to fill the vacancy until the next ensuing municipal election.

#### School fund.

Sec. 421. The school fund of the city shall consist of all moneys received from the state school

fund; of all moneys arising from taxes which shall be levied annually by the city council of the city for school purposes; of all moneys arising from the sale, rent, or exchange of any school property, and of such other moneys as may, from any source whatever be paid into said school fund; which fund shall be kept separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this chapter. If, at the end of any fiscal year, any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal year, and shall not be, for any purpose whatever, diverted or withdrawn from said fund, except under the provisions of this chapter.

School fund, how expended.

Sec. 422. The said school fund shall be used and applied by said board of education for the following purposes, to wit:

1. For the payment of the salaries or wages of teachers, janitors, school-census marshals, and other persons who may be employed by said board;

2. For the erection, alteration, repairs, rent, and furnishing of school-houses;

3. For the purchase money or rent of any real or personal property purchased or leased by said board;

4. For the insurance of all property;

5. For the discharge of all legal incumbrances on any school property;

6. For lighting school-rooms and the offices and rooms of the superintendent and board of education;

7. For supplying the schools with fuel, water, apparatus, blanks, blank-books, and necessary school appliances, together with books for indigent children;

8. For supplying books, printing and stationery for the use of the superintendent and board of education, and for the incidental expenses of the board and department;

9. For the payment of the salary of the superintendent and assistant superintendent;

10. For grading and improving all school lots,

and for grading, sewerage, planking, or paving and repairing streets, and constructing and repairing sidewalks in front thereof.

#### Claims.

Sec. 423. All claims payable out of the school fund shall be filed with the secretary of the board, and after they shall have been approved by a majority of all the members elect of said board, upon a call of the ayes and noes, which shall be recorded, they shall be signed by the president of the board and by the superintendent, and be sent to the city treasurer. Every demand shall have indorsed upon it a certificate of its approval. All demands for salaries shall be paid monthly.

Debt not to be in excess of income.

Sec. 424. All demands authorized by this article shall be paid by the city treasurer from the school fund, when the same shall be presented to him, ordered paid, and approved by the board; provided, that the said board shall not have power to contract any debt or liabilities, in any form whatsoever, against the said city, in contravention of this article, or exceeding in any year the income and revenue provided for the school fund for such year.

#### Auditor to certify.

Sec. 425. It shall be the duty of the auditor of the county in which any such city may be situated, upon the first Monday in each month, and at such other times as he may deem proper, to certify in duplicate to the superintendent of schools of such county, the amount of school moneys at that time in the county treasury, and the amount received during the previous month. The county superintendent shall, upon receipt of such certificates, indorse upon one of them the amount of such moneys to which the common schools in such city are entitled. The certificate so indorsed shall at once be returned to said auditor, who shall direct upon the same the county treasurer to pay the sum designated upon such certificate to the treasury of such city for the use of the school fund thereof.

#### Treasurer to pay.

Sec. 426. The treasurer of such county shall thereupon pay to the treasurer of such city the

sum directed by the auditor as above provided; and when said moneys are placed in such city school fund, they shall be used in precisely the same manner as moneys raised by city school taxes in such city; provided, that the entire revenue derived by such city from the state school fund, and the state school tax, shall be applied by said board of education exclusively to the support of primary and grammar schools.

## CHAPTER IV.

### Municipal Corporations of the Third Class.

(A charter for cities having a population of more than 15,000 and not exceeding 30,000.)

#### Article I.—General Powers.

##### Third class.

Sec. 500. Every municipal corporation of the third class shall be entitled the city of — (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

#### Article II.—General Provisions Relating to Officers.

##### City officers.

Sec. 501. The government of such city shall be vested in a mayor; a common council, to consist of seven aldermen; a board of education, to consist of seven school directors; a police judge; an assessor; a clerk, who shall be ex officio auditor; a treasurer; a superintendent of streets; a tax and license collector; a water-rate collector; a city attorney; and such other and inferior officers as the common council may appoint.

**Election and tenure.**

Sec. 502. The aldermen, mayor, police judge, city attorney, and assessor shall be elected by the qualified electors of such city, at a general municipal election to be held therein on the second Tuesday in March, in each even-numbered year. The mayor, police judge, city attorney, and assessor shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. The members of the common council and board of education shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; provided, that the first common council elected under the provisions of this chapter shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of two years, and four at the expiration of four years; and provided further, that the first board of education elected under the provisions of this chapter shall, at their first meeting, so classify themselves by lots as that three of their number shall go out of office at the expiration of two years, and four at the expiration of four years.

**Other officers appointed.**

Sec. 503. All other officers, except, as otherwise in this chapter provided, shall be appointed by the common council, upon the nomination of the mayor, and shall hold office for the period of two years from and after the date of such appointment, and until their successors are appointed, elected, and qualified.

**Bonds.**

Sec. 504. The common council shall, by ordinance, determine what officers shall give bonds for the faithful performance of their duties, and fix the amount of such bond; and each of such officers shall, before entering upon the duties of his office, execute a bond to such city in such penal sum as the common council by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the du-



ties of all offices of which he is made by this chapter ex officio incumbent. Such bond shall be approved by the common council. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, if any, which shall be filed with the mayor. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office.

Vacancies.

Sec. 505. Any vacancy occurring in any of the offices provided for in this chapter, except in the office of school director, shall be filled by appointment by the common council upon the nomination of the mayor, but if such office be elective, such appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term.

#### Compensation.

Sec. 506. The aldermen and school directors shall receive no compensation whatever. The annual salaries of other officers shall be as follows: mayor, one thousand two hundred dollars; police judge, one thousand eight hundred dollars; assessor, one thousand eight hundred dollars; city attorney, one thousand five hundred dollars; street superintendent, one thousand two hundred dollars; clerk and auditor, one thousand five hundred dollars; tax and license collector, one thousand two hundred dollars; treasurer, one thousand dollars, water-rate collector, one thousand two hundred dollars; school superintendent, one thousand five hundred dollars; all of which salaries shall be paid monthly.

#### Elections.

Sec. 507. All elections in such city shall be held in accordance with the general election law of the state, so far as the same may be made applicable; and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided in such city for

at least thirty days next preceding such election. The common council shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and establish and change election precincts and polling-places; provided, that no part of any ward less than the whole thereof shall be attached to any other ward, or part thereof, in forming election precincts. At any municipal election the last printed great register of the county shall be used, and any elector whose name is not upon such printed register shall be entitled to vote upon producing and filing with the board of election a certificate, under the hand and official seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county, provided that he is otherwise entitled to vote.

Eligibility to office.

Sec. 508. No person shall be eligible to or hold any office in such city, whether filled by election or appointment, unless he be a resident and elector therein, and shall have resided in such city for one year next preceding the date of such election or appointment; provided, however, that the provisions of this section shall not apply to school superintendents or school-teachers. One alderman and one school director shall be elected from each ward, and the person so elected must be a resident of the ward from which he is so elected, and continue to be such resident during his term of office, and if he shall fail to so continue a resident of such ward, his office shall, by reason thereof, immediately become vacant.

Free library.

Sec. 509. The trustees of any free public library created or existing in such city under the provisions of an act entitled "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, shall be appointed by the council in the same manner as other officers are appointed under the provisions of this chapter, anything in the provisions of said act to the contrary notwithstanding.

## Article III.—Legislative Department.

## Common council—Meetings.

Sec. 520. The common council shall meet on the Monday next succeeding the date of said general municipal election, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the mayor, or by three aldermen, by written notice delivered to each member at least three hours before the time specified for the proposed meeting. All meetings of the common council shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

## Mayor to preside.

Sec. 521. At any meeting of the common council, a majority of the aldermen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The mayor shall preside at all meetings of the council, and in case of his absence, the council may appoint a president pro tem.; and in case of the absence of the clerk, the mayor or president pro tem. shall appoint one of the members of the council clerk pro tem.

## Rules.

Sec. 522. The common council shall judge of the qualifications of its members, and of all election returns, and determine contested elections of all city officers. They may establish rules for the conduct of their proceedings, and punish any member or other person for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and, at the desire of any member, shall cause the ayes and noes to be taken on any question, and entered on the journal.

Light and water ordinances.

Sec. 523. No ordinance, and no resolution or order for the payment of money, for granting any franchise, for lighting or watering streets, or for supplying water for municipal purposes, shall be passed by the common council on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting; and no ordinance, and no such resolution or order, shall have any validity or effect unless passed by the votes of at least four aldermen and approved by the mayor; provided, that if the mayor shall neglect or refuse to approve the same within five days, then the same may be passed by the votes of five aldermen, and shall then take effect as if approved by the mayor.

Powers of council.

Sec. 524. The common council of such city shall have power:

Ordinances.

1. To pass ordinances not in conflict with the constitution and laws of this state, or of the United States.

Real estate.

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; provided, that they shall not have power to sell or convey any portion of any water front.

Water supply.

3. To acquire, construct, repair, and manage, pumps, aqueducts, reservoirs, and other works necessary or proper for supplying the city with water.

Streets.

4. To establish, lay out, alter, open, keep open, improve, and repair streets, sidewalks, alleys, bridges, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same in whole or in part, and to construct gutters, culverts, sidewalks, and cross-walks therein or upon

any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally manage and control all such highways and places.

#### Sewers.

5. To construct and maintain drains and sewers.

#### Extinguishment of fires.

6. To provide fire-engines and all other necessary or proper apparatus for the prevention and extinguishment of fire, and to construct and maintain telegraph and telephone lines for fire and police purposes.

#### Poll-tax.

7. To impose on and collect from every male inhabitant between the ages of twenty-one and sixty years an annual street poll-tax not exceeding two dollars; and no other road poll-tax shall be collected within the limits of such city.

#### Dog tax.

8. To impose and collect an annual tax, not exceeding two dollars, on every dog owned or harbored within the limits of the city; and no other dog tax shall be collected within the limits of such city.

#### Property tax.

9. To levy and collect annually a property tax, not exceeding one dollar on each one hundred dollars of the assessed value of all real and personal property within such city, which said tax shall be apportioned as follows: For the general fund, not exceeding fifty cents on each one hundred dollars; for the road fund, not exceeding twenty-five cents on each one hundred dollars; and for the school fund, not exceeding twenty-five cents on each one hundred dollars; each of which funds shall be kept separate from all others.

#### Licenses.

10. To license, for purposes of regulation and revenue, all and every kind of business authorized by law, and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

**Rivers.**

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and remove obstructions therefrom; to improve the water-front of the city; to construct and maintain embankments and other works to protect such city from overflow; and to bridge any creek or river so as not to interfere with navigation.

**Public buildings.**

12. To erect and maintain buildings for municipal purposes.

**Tracks and pipes.**

13. To permit, under restrictions as they may deem proper, the laying of railroad tracks and the running of cars drawn by horses, steam, or other motive power thereon, and the laying of gas and water pipes in the public streets, and the construction and maintenance of telegraph and telephone lines therein.

**Ward division.**

14. To divide the city, by ordinance, into seven wards as nearly equal in population as may be, to fix the boundaries thereof, and to change the same from time to time; provided, that no change in the boundaries of any ward shall be made within sixty days next before the date of said general municipal election, nor within twenty months after the same shall have been established or altered.

**Fire department.**

15. To establish and regulate a fire department and a police department, to appoint and remove the officers and employees thereof, and to prescribe their duties and fix and order paid their salaries and compensation.

**Subordinate officers.**

16. To appoint and remove such subordinate officers as they may deem proper, and to fix their duties and compensation.

**Imposition of penalties.**

17. To impose fines, penalties, and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such



fine shall exceed five hundred dollars, nor the term of such imprisonment exceed six months.

Prison labor.

18. To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the city.

Other acts.

19. To do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

Enacting clause.

Sec. 525. The enacting clause of all ordinances shall be as follows: "The mayor and common council of the city of — do ordain as follows." Every ordinance shall be signed by the mayor, attested by the clerk, and published at least five times in a newspaper published in such city.

Common council to audit.

Sec. 526. All demands against such city, except for school purposes, shall be presented to and audited by the common council, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the mayor shall draw a warrant upon the treasurer for the same, which warrant shall be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid.

No debt in excess of available money.

Sec. 527. The common council shall not create, audit, allow, or permit to accrue any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes; provided, that any city, during the first year of its existence under this act, may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it for such year; nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinafter provided.

Indebtedness in excess to be decided by election.

Sec. 528. If, at any time, the common council shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purpose for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund, as hereinafter provided. Such notice shall be published for at least three weeks in some newspaper published in such city; and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appear that not less than two-thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the common council to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and in each ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the common council in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

Violation of ordinances.

Sec. 529. The violation of any ordinance of such city shall be deemed a misdemeanor, and may be prosecuted by the authorities of such city in the name of the people of the state of California, or

may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the city jail; or, if the common council by ordinance shall so prescribe, in the county jail of the county in which such city may be situated, in which case the expense of such imprisonment shall be a charge in favor of such county and against such city.

#### Nuisances.

Sec. 530. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

#### System of street work.

Sec. 531. The common council are authorized and empowered to provide, by ordinance, a system for doing any or all work in or upon the streets, highways, and public places of such city, and for making therein street improvements and repairs, and for doing any or all work authorized by subdivisions four and five of section five hundred and twenty-four of this act, and for the payment of the cost and expenses thereof, either by the levy and collection of special assessments therefor, in proportion to benefits, upon the property to be benefited thereby, or by payments made out of the road fund of such city, or by both; provided, that in all cases where more than one-half of the expense of any such improvement, except the construction of a sewer or drain, exceeding in amount the sum of one thousand dollars, is to be defrayed by special assessment, the common council shall first adopt a resolution, which shall be entered upon their journal, declaring their intention to make such improvement, and fixing a time at which objections to the making of such improvement will be considered. Such resolution shall also designate the boundaries of the district to be affected or bene-

fited by such improvement. Upon adopting such resolution, the common council shall give notice of such intention, which notice shall be published for twenty days in a newspaper printed and published in such city. Such notice shall describe the improvement so proposed to be made, and state the estimated cost thereof, and designate the time set for such hearing, and shall refer to such resolution so entered upon the journal for such description of boundaries. If, at or before the time so fixed, written objections to such improvement, signed by the owners of two-thirds in value of the property so to be affected or benefited, as shown by the last preceding city assessment roll, be not filed with the clerk, the common council shall be deemed to have acquired jurisdiction to order the making of such improvement. Any such special assessment made and levied to defray the cost and expenses of any such work, together with any percentage imposed for delinquency and the costs of collection, shall constitute a lien upon and against the property upon which such assessment is made and levied, from and after the date of the order for such assessment; which lien may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by an action in any court of competent jurisdiction to foreclose such lien; provided, that any property sold to satisfy any such lien shall be subject to redemption within the time and in the manner provided, or that may hereafter be provided by law for the redemption of property sold for taxes.

Right of way.

Sec. 532. The common council are authorized and empowered to provide by ordinance for the establishing, laying out, extending, and widening streets and other public highways and places within the city, and for taking private property therefor, and for taking private property for the purpose of rights of way for drains, sewers, and aqueducts, and for the purpose of widening and straightening the channels of streams, and the improvement of water-fronts; but no private prop-

erty or right of way over or through the same shall be taken without the consent of the owner thereof until a just compensation for the same shall be ascertained and paid to such owner, or into court for his use. If the owner of any parcel of land proposed to be taken for any such improvement shall be dissatisfied with the amount of compensation awarded by said council for the taking of such parcel, he may, within twenty days after the date of such award, commence an action against such city in any court of competent jurisdiction within the city, township, or county, to recover such amount of compensation as he may consider himself entitled to. The amount of compensation ascertained and awarded in such action shall be deemed and taken to be the amount of compensation to which such person will be entitled if such improvement be made. If such person fail to recover in such action a greater amount of compensation than was so awarded by said council, he shall not recover costs but shall pay costs to such city. Any owner of or person interested in any such parcel of land, who shall fail to commence such action within the time herein limited, shall be deemed to have waived his right in that behalf, and to have assented to and ratified the award of said council. The common council shall not acquire jurisdiction to exercise any of the powers hereinbefore in this section enumerated, until a petition in writing therefor is first presented to said council, signed by at least twenty inhabitants of said city, taxable therein for municipal purposes. Such petition must describe generally the street, highway, or public place proposed to be laid out or established, or the proposed alteration by widening or extending the same, or by widening or straightening the channels of streams, or by the improvement of water-fronts; or if a right of way is sought for drains, sewers, or aqueducts, such petition shall describe the proposed route for the same. Such petition shall be heard at a regular meeting of the council, notice of such hearing being given by the clerk by publication in a newspaper published in such city, for a period of three weeks before hearing. Such notice

shall be deemed to give said council full jurisdiction over the subject-matter, and over the person of every owner of or person interested in any parcel of land to be taken or assessed for any such improvement; and every person interested, from and after the expiration of such publication, shall be deemed to have notice of all subsequent proceedings; provided, that nothing herein contained shall be construed to prevent such council from giving such other or further notice as they may deem proper. At the time fixed in such notice, or at such time to which such hearing may be postponed, the council shall proceed to hear and determine the prayer of such petition pursuant to such rules and regulations as may be prescribed by such ordinance. Such system, so established by ordinance, may provide for the payment of such compensation, either by the levy and collection of special assessments therefor, in proportion to benefits upon the property to be affected or benefited by any such improvement, or by payments made out of the street fund, or river and water-front improvement fund of such city, or by both. Any such special assessment made and levied to provide means for the payment of any such compensation and the cost of ascertaining the same, together with any percentage imposed for delinquency and the costs of collection, shall constitute a lien upon and against the property upon which such assessment is made and levied, from and after the date of the order for such assessment; which lien may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by an action in any court of competent jurisdiction to foreclose such lien; provided, that any property sold to satisfy any such lien shall be subject to redemption within the time and in the manner provided or that may hereafter be provided by law for the redemption of property sold for taxes.

Taxes and tax sales.

Sec. 533. The common council shall have power, and it shall be their duty, to provide by ordinance for the assessment, levy, and collection of all city



taxes, which shall conform, as nearly as the circumstances of the case may permit, to the provisions of the laws of this state in reference to the assessment, levy, and collection of state and county taxes, except as to the times for such assessment, levy, and collection, and except as to the officers by whom such duties are to be performed. All taxes assessed, together with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property assessed from and after the first Monday in March in each year; which liens may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by actions in any court of competent jurisdiction to foreclose such liens; provided, that any property sold for such taxes shall be subject to redemption within the time and in the manner provided or that may hereafter be provided by law for the redemption of property sold for state or county taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state or county taxes.

Laws concerning indebtedness to continue in force.

Sec. 534. No money shall be expended or drawn out of the street fund for any but street and sewer purposes, and no money shall be expended or drawn out of the school fund for any but school purposes. Whenever any city organizing under this act has a bonded indebtedness contracted or issued under any law of this state, all the provisions of such laws in regard to the levying, collection, and disposition of taxes and revenues for the payment of such indebtedness and the interest thereon, shall continue in force, and the taxes levied and revenues raised for the payment of the interest and principal of such indebtedness shall be in addition to the taxes provided by section five hundred and twenty-four of this act, and the common council of said city, organizing under this act,

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is hereby authorized and empowered to levy and collect such taxes and apportion such revenues for the payment of such indebtedness and interest, in addition to the limit of taxation hereinbefore prescribed in this act; and nothing in this chapter shall be construed to prevent any city from levying and collecting the tax authorized by the act entitled, "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, and from fines, penalties and forfeitures, shall be paid into the general fund.

#### River improvement.

Sec. 535. The common council may also levy and cause to be collected, in each year, in addition to the taxes herein authorized to be levied and collected, a tax, not exceeding twenty cents on each one hundred dollars of the assessed value of all real and personal property within such city subject to taxation, the proceeds of which tax shall be known as the "river and water-front improvement fund," and shall be applied to the improvement of streams, bays, and waterfronts, the erection of embankments, and other works to protect the city from overflow, and the construction of works of drainage, and for no other purposes whatever.

#### Public work to be done by contract.

Sec. 536. In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or water-fronts, or in or about embankments or other works for protection against overflow, or in furnishing any supplies or materials for the same, when the expenditures required for the same exceeds the sum of five hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after due notice, under such regulations as may be prescribed by ordinance; provided, that the common council, or board of education, may reject all bids presented, and readvertise, in their discretion; and provided further, that in case of any great and unfore-

seen calamity or emergency the common council, by a resolution, unanimously adopted and approved by the mayor, may dispense with the foregoing provisions of this section, the reason for such action being entered on their minutes. The common council shall, annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice as provided in this section. All advertising shall be done in a newspaper printed and published in such city, and the contract therefor shall be awarded separately from all other printing.

#### Article IV.—Executive Department.

##### Mayor.

Sec. 550. The mayor shall be at the head of the executive department of the city. It shall be his duty to be vigilant and active in causing the laws and ordinances of the city to be duly executed and enforced; to have the general supervision of the police department; to receive and examine into all complaints preferred against any officer, and to certify the same to the common council; to administer and certify oaths and affirmations in any and all matters and proceedings pertaining to the city; to preside at all meetings of the common council; and to perform such other duties as are or may be prescribed by law or ordinance.

##### Clerk.

Sec. 551. It shall be the duty of the clerk to keep a true and correct record of all the proceedings of the common council, and to countersign all warrants; to keep accounts current with every officer charged with the receipt or disbursement of money; to keep the seal of the city and affix the same to all instruments requiring such seal; to perform the duties required of him by the next section; to report to the common council on the first Monday of each and every month a full and detailed statement of the receipts and disbursements of the treasury during the preceding month, and the state of each particular fund, which statement

shall be verified by his oath; to administer and certify oaths and affirmations; to perform such duties in and about the assessment, levy, and collection of taxes and assessments as may be prescribed by law or ordinance; to appoint deputies; and to perform such other and further duties as the common council may by ordinance prescribe.

Treasurer.

Sec. 552. It shall be the duty of the treasurer to receive, upon the order of the clerk, all moneys due or belonging to the city, for which he shall give his receipt, which receipt shall be filed with the clerk by the person making such payment, and the clerk shall give to such persons his receipt therefor, which receipt shall be the only evidence of payment. He shall pay all warrants drawn by authority of and in accordance with law. He shall perform such duties in the collection of taxes or assessments as are or may be prescribed by law or ordinance. He shall, on the first Monday of each and every month, present to the common council a full and detailed statement of the amount of money belonging to the city received by him, and by him disbursed during the preceding month, and the state of each particular fund, which statement shall be verified by his oath. He may appoint deputies by and with the consent of the common council, and shall perform such other duties as are or may be prescribed by law or ordinance.

Compensation, how fixed.

Sec. 553. The common council shall, by ordinances not inconsistent with the provisions of this chapter, prescribe the duties of all officers, and fix their compensation.

## Article V.—Judicial Department.

Police and justices' courts.

Sec. 560. The judicial power of the city shall be vested in a police court, to be held by the police judge of such city. Said police court shall have jurisdiction, concurrently with the justices' courts,

of all criminal actions and proceedings arising within the corporate limits of such city, and which might be tried in such justices' courts; and shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city, of all actions founded upon any obligation or liability created by any ordinance, and of all prosecutions for any violation of any ordinance. The rules of practice and mode of proceeding in said police court shall be the same as are or may be prescribed by law for justices' courts in like cases; and appeals may be taken to the superior court of the county in which such city may be situated from all judgments of said police court, in like manner and with like effect as in cases of appeals from justices' courts. Said court shall be a court of record.

#### Police judge.

Sec. 561. The police judge shall be judge of the police court, and shall have the powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations, and take and certify acknowledgments.

#### When disqualified.

Sec. 562. In all cases in which the police judge is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified, or in case of his sickness or inability to act, the mayor may call in a justice of the peace residing in the city to act in the place and stead of the police judge; or if there be no justice of the peace residing in the city, or if all those so residing are likewise disqualified, then he may call in any justice of the peace residing in the county in which such city may be situated.

#### Clerk of court.

Sec. 563. The common council shall appoint, upon the nomination of the mayor, a clerk for said police court. Said clerk shall keep the records of said court and the seal thereof, and perform such other duties as may be required of him by law or ordinance. He shall receive a salary of one hundred dollars per month. The council shall also provide a seal for said police court.

## Article VI.—School Department.

## Board of education.

Sec. 570. From and after the organization of each of such cities, the same shall constitute a separate school district, which shall be governed by the board of education of such city.

## Vacancies.

Sec. 571. In case a vacancy shall occur in the office of school director, the board of education shall choose a person to fill such vacancy, who shall serve until the next election, when, if the term does not then expire, a person shall be elected to serve for the remainder of such unexpired term.

## Meetings.

Sec. 572. The board of education shall meet on the second Tuesday after such general municipal election, and choose one of its members as president, and another as vice-president. Its regular meetings shall thereafter be held as often as twice in each month, and the time and place for holding such meetings shall be fixed by a rule of said board. Special meetings of said board may be held when called by written notice, signed by its president, or three of its members, and delivered personally to each of its members who shall not have signed the same. Four members shall constitute a quorum, and no business shall be transacted by said board of education without the concurrence of four of its members; but a majority of the members present at any meeting may adjourn from time to time. All meetings of said board of education shall be public, and full records of its proceedings shall be kept by the school superintendent, who shall be ex officio clerk of said board of education.

## Powers of board.

Sec. 573. The board of education shall have power:

## To maintain schools.

1. To establish and maintain public schools, and to subdivide the school districts, and to fix and alter the boundaries of such subdivisions.



### Superintendent.

2. To appoint a school superintendent, who shall hold office during their pleasure, and to prescribe his duties, and fix his compensation.

### Employees.

3. To employ and dismiss teachers, janitors, truant-officers, and school-census marshals, and to fix, alter, allow, and order paid their salaries or compensation; and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers hereby conferred.

### Regulation of schools.

4. To make, establish, and enforce all necessary or proper rules and regulations, not in conflict with the laws of this state, for the government and management of public schools within such city, the teachers thereof, and the pupils therein, and for carrying into effect the laws relating to education.

### Supplies.

5. To provide for the school department of such city fuel and lights, water, printing, and stationery, and to incur such other incidental expenses as may be deemed necessary by said board.

### Building and repairs.

6. To build, alter, repair, rent, and provide school-houses, and to furnish the same with proper school furniture, apparatus, and appliances, and to insure any and all school property.

### Real estate.

7. To purchase, receive, lease, and hold in fee, in trust for such city, any and all real estate and personal property that may have been acquired, or may hereafter be acquired, for the use and benefit of the schools of such city; provided, that no real estate shall be bought, sold, or exchanged, nor any expenditure incurred for the construction of new school-houses, without the approval of the common council; and provided further, that the proceeds of any such sale or exchange of real estate shall be exclusively applied to school purposes.

### Improvement.

8. To grade, fence, and improve all school lots.

To determine moneys needed.

9. To determine annually the amount of money required for the support of the public schools, and for carrying into effect all the provisions of law in reference thereto; and in pursuance of this provision, the board of education shall, at least ten days before the meeting of the common council at which the annual city taxes are levied, submit in writing to the common council a careful estimate of the whole amount of money to be received from the state and county, and of the amount to be required from such city for the above-mentioned purpose; and the amount so found to be required from the city shall, by the common council, be added to the other amounts to be assessed and collected for city purposes, and when collected, the proceeds thereof shall be immediately paid into the school fund of such city, to be drawn out only upon the order of the board of education; provided, that such annual tax shall not exceed twenty-five cents on each one hundred dollars of the assessed valuation of the real and personal property within such city.

Disbursement regulations.

10. To establish regulations for the just and equal disbursement of all moneys belonging to the school fund.

Incumbrances.

11. To discharge all legal incumbrances existing at the time of the incorporation of such city, or thereafter, on any school property within such city.

Admission of non-residents.

12. To admit non-resident children, and persons over twenty-one years of age, to any of the departments of the schools of such city, upon the payment, monthly, in advance, to the treasurer of such city, for the school fund, of such tuition fee as said board may establish.

Age limit.

13. To prohibit any children under six years of age from attending the public schools.

Grades and text-books.

14. To establish and regulate the grades of schools in such city, and the course of study, and the mode of instruction to be pursued therein, and to determine what text-books shall be used.

Other acts.

15. To do and perform, in addition to the foregoing powers, such other acts as may be necessary or proper to carry into effect the powers hereby conferred.

Board may sue.

Sec. 574. The board of education may sue and be sued by their name of office. In any action or judicial proceeding against said board, service of process upon the president, or upon a majority of the members of the board, shall be sufficient to give the court jurisdiction to hear and determine the same.

County treasurer to pay over.

Sec. 575. All moneys received by the treasurer of the county wherein such city may be situated, on account of the school fund of such city, or the school district consisting of the same, and all sums received into the county treasury, which may be apportioned to said city or district, shall be paid to the treasurer of such city by the treasurer of such county, as soon as received, or as soon as the apportionment shall be made, when apportionment is necessary.

Powers of president.

Sec. 576. The president of the board of education shall have power to administer oaths and affirmations concerning any demand upon the treasury, payable out of the school fund, and in all other matters relating to the duties of the board of education, and to witnesses examined in any investigation had by such board of education, or by a committee thereof, duly appointed by it for that purpose.

Same.

Sec. 577. Said president may issue subpoenas under his hand and the seal of such city, attested by the city clerk, to compel the attendance of witnesses before such board of education, or committee thereof, who shall be entitled to the same fees as witnesses in civil cases, and who may be punished for contempt for non-attendance, or refusal to be sworn, or to answer, by the superior court of the county in which such city may be situated.

**Claims.**

Sec. 578. Every claim payable out of the school fund shall be filed with the clerk of the board of education, and after it shall have been approved by the board, a certificate of such approval shall be indorsed thereon, signed by the president and clerk; and a warrant upon the school fund shall be issued thereon for the payment of such claim, which warrant shall be signed by the president of such board, and countersigned by the clerk, and shall specify for what purpose the same is drawn. Entire revenue for schools.

Sec. 579. The entire revenue derived by such city from the state school fund and the state school tax shall be applied by said board of education exclusively to the support of primary and grammar schools.

**Article VII.—Miscellaneous Provisions.****Moneys collected.**

Sec. 590. Every officer collecting or receiving any moneys belonging to or for the use of such city shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong.

No officer to be interested in contracts.

Sec. 591. No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof, in their official capacity, or in doing any work or furnishing any supplies for the use of such city or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

## CHAPTER V.

## Municipal Corporations of the Fourth Class.

(Charter for cities having a population of more than 10,000 and not exceeding 15,000.)

## Article I.—General Powers.

## Fourth class.

Sec. 600. Every municipal corporation of the fourth class shall be entitled the city of — (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever, and shall have and use a common seal, and the same alter at pleasure; may purchase, receive, have, take, hold, lease, use, and enjoy property of every name or description, and control and dispose of the same for the common benefit.

## Article II.—General Provisions Relating to Officers.

## Officers.

Sec. 601. The officers of such city shall consist of a mayor, twelve councilmen, a collector, who shall also be street commissioner, an assessor, treasurer, city clerk, police judge, city attorney, chief of police, superintendent of public schools, and two school trustees for each ward; and whenever a free public library and reading-room is established therein, five trustees thereof; and the council may also provide for the election, by the voters of said city, or by said council, of a superintendent of irrigation. The city council may also elect a city surveyor, harbor-master, pound-keeper, and city jailer, and whenever a paid fire department shall be established in such city, a chief engineer, and one or more assistant engineers, and any other officer

necessary to carry out the provisions of this chapter, and for whose election or appointment no provision is made, and may by ordinance prescribe the duties of all city officers, and fix their compensation, subject to the limitations herein contained.

Election under this act.

Sec. 602. On the first Tuesday after the first Monday of November of each odd-numbered year a municipal election shall be held, at which the qualified voters of such city shall elect one school trustee for each ward, and six councilmen, to be voted for by the wards they may respectively represent, and each to hold office for the term of four years, and until the qualification of his successor; and also a mayor, an assessor, a collector and street commissioner, city attorney, police judge, chief of police, and superintendent of public schools, who shall each hold office for two years, and until the qualification of a successor; provided, that at the first election held after the organization of such city under this act such city shall elect two school trustees for each ward, and twelve councilmen, who shall, at the first meeting of the city council and board of education, respectively, decide by lot their terms of office; six of said councilmen and one-half of the number of school trustees to hold for the term of four years, and the others for the term of two years, and in each case until the qualification of their successors.

Provisions concerning elections.

Sec. 603. The city council shall call all city elections, designate the time and place of holding the same, giving at least ten days' notice thereof, and shall appoint one inspector or clerk, and two judges of election, for each ward or election precinct in such city, who shall appoint two clerks, and all shall take the oath of office prescribed by law for inspectors, judges, and clerks of state and county elections. All provisions of law regulating elections for state and county officers, not conflicting herewith, shall apply to elections under this chapter. The polls for all city elections shall be open at eight o'clock A. M., and continue open un-



til five o'clock P. M., the same day. If any officer so appointed shall fail to attend, those attending, with the electors assembled, shall fill their places by others from the qualified electors present. All returns of city elections shall be made out and signed by the officers of such election in the usual form, and deposited with the city clerk within two days after the election. The persons having the plurality of the votes cast for each of the respective offices voted for shall be declared elected. No person shall vote at any city election unless he shall be an elector for state and county officers, and shall have actually resided within such city, and in the precinct where he may offer to vote, thirty days preceding such election; provided, that any elector who may remove from one precinct to another within thirty days prior to such election may, if a qualified voter therein at the time of removal, vote in the precinct from which he may have moved. If any person not having the legal qualifications of an elector at any city election shall fraudulently vote, or attempt to vote, or knowingly hand in two or more ballots folded together, or shall vote, or attempt to vote, more than once at the same election, such person or persons, on conviction thereof, shall be fined in any sum not less than twenty nor more than five hundred dollars, or be imprisoned in the county jail for any period not more than three months, or may be punished by both such fine and imprisonment.

City council to canvass vote.

Sec. 604. On the Monday following the election, the city council shall convene and publicly canvass the result, and shall issue certificates of election to each person elected by a plurality of votes. When two or more persons have received an equal and highest number of votes for any one of the offices voted for, the city council shall thereafter, at its first regular meeting, decide by vote between the parties which shall be elected. If the city council from any cause fail to meet on the day named, the mayor shall call a special meeting of said council within five days thereafter, and in addition to the notice provided for calling special

meetings, shall publish the same on two successive days in some newspaper published in such city. If the mayor fail to call said meeting within said five days, any four councilmen may call it. At such special meeting all elections, appointments, or other business may be transacted that could have been on the day first herein named.

Office, when vacant.

Sec. 605. Each officer of such city shall take the oath of office, and such as may be required to give bond, file the same, duly approved, within ten days after receiving notice of his election or appointment, or if no notice be received, then on or before the date fixed for the assumption by him of the duties of the office to which he may have been elected or appointed; but if any one, either elected or appointed to office, fail for ten days to qualify as required by law or to enter upon his duties at the time fixed by law or the orders of the city council, then such office shall become vacant; or if any such officer shall absent himself from such city continuously for ten days without the consent of the city council, or shall openly neglect or refuse to discharge his duties, such office may be by the city council declared vacant; provided, that the penalty for absence from the city shall not apply to such officers as serve without salary or other compensation. Such officers as are elected by the voters of the city shall enter upon their duties on the first Monday of January next succeeding the date of their election; such officers as are appointed or elected by the city council shall enter upon their duties within ten days after receiving notice of their appointment or election.

Unexpired term.

Sec. 606. When any vacancy occurs in any elective office, except the mayor, the city council may fill the same for the unexpired term, except in case of city councilmen, or school trustees, which shall be filled until the next city election, and until the qualification of a successor. The city council may, upon written charges to be entered upon their journal, after notice to the party, and after trial, by a vote of two-thirds of all the members elect, remove any officer.

### Official bonds.

Sec. 607. It shall be the duty of the city council to provide for the accountability of the city assessor, treasurer, clerk, police judge, collector, and street commissioner, city attorney, and all other officers herein provided for, by requiring from them sufficient security for the faithful performance of their duties or trusts, which security shall be given by them before entering on their respective duties. If such security should be or become insufficient, additional security may be required, and if not given within ten days, the council, by a vote of two thirds of the members, may declare the office vacant, and may thereafter fill the same.

### Compensation.

Sec. 608. The mayor, councilmen, and school trustees shall not receive any salary or compensation for their services; provided, that members of the city council, or a committee thereof for that purpose appointed, may receive for their services, while acting as a board of equalization, a sum to be determined by the council, not to exceed for each one five dollars per day, for each day while actually so engaged, for two weeks in each year, and no longer.

### Street commissioner.

Sec. 609. The collector and street commissioner shall receive a salary, to be fixed by the city council, which shall not exceed the sum of fifteen hundred dollars per annum.

### No additional compensation.

Sec. 610. The city council shall have no power to allow any extra or additional compensation to that in this chapter expressly authorized to any officer for the rendition of services that the city council have power to require the officer to perform by virtue of his office.

### Ward division.

Sec. 611. In case any such city shall, at the time of its organization under this act, be divided into wards, such divisions shall continue, but the city council may, at any time not within three months previous to an annual city election, change the boundaries of such wards, or divide it into others, not exceeding six in number; provided, that such

change shall not affect the term of office of any councilman or school trustee, but they shall serve out their term for the ward in which their residence may be; but if more reside within any one ward than the proportion to which it is entitled, those of the shortest unexpired term shall, by the council, be assigned for such unexpired term to a ward where there is a vacancy. The representation of each ward in the city council shall be as near as may be in proportion to its population, but each ward shall have two school trustees.

### Article III.—Legislative Department.

#### City council.

Sec. 620. The mayor and councilmen of the several wards shall constitute the city council, and at its first meeting in January next after a city election shall elect a city clerk, city treasurer, and one of their own body as president of the city council, and at any time when the mayor and president are both absent, may elect a president pro tem., who shall act during such absence. They shall also, at such time, designate the number of policemen for such city, to be elected as hereinafter provided.

#### Meetings.

Sec. 621. A majority of the councilmen elect shall constitute a quorum for the transaction of business. A less number may adjourn from time to time, and they may compel the attendance of absent members. The council may punish their members for disorderly conduct, and upon written charges to be entered on their journal, for such conduct, after trial, may expel a member by a vote of two thirds of all the members elected. The mayor shall have a vote only in case of a tie in the votes of the other members. They shall determine their rules of proceeding and the qualification of members. The sittings of the council shall be open to the public, except where the interests of the city shall require secrecy. A journal of all their proceedings shall be kept by the clerk

under their direction. At any time, at the request of any two members, the ayes and noes on any question shall be taken and entered upon the journal.

Powers of council.

Sec. 622. The city council shall have power and authority to make and pass all by-laws, ordinances, orders, and resolutions not repugnant to the constitution of the United States or of the state of California, or the provisions of this charter, necessary for the municipal government and the management of the affairs of the city, for the execution of the powers vested in said body corporate, and for carrying into effect the provisions of this chapter; to fix and collect a license tax on and to regulate theaters, melodeons, balls, concerts, dances, and all theatrical, melodeon, circus, or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participators; also all shows, billiard-tables, bowling-alleys, exhibitions, or amusements; to fix and collect a license tax on and to regulate all taverns, hotels, restaurants, saloons, bar-rooms, banks, brokers, manufactories, livery-stable keepers, express companies, and persons engaged in transmitting letters or packages, railroad, stage, and steamboat companies or owners, whose principal place of business is in such city, or who shall have an agency therein; to license and regulate auctioneers; to license, regulate, tax, prohibit, or suppress all tippling-houses, dram-shops, saloons, bars, bar-rooms, raffles, hawkers, peddlers, pawn-brokers, refreshment or coffee stands, booths, or sheds; to prohibit or suppress, or to license and regulate, all dance-houses, fandango-houses, cock-fights, dog-fights, or any exhibition or show of any animal or animals; to license and tax hackney-coaches, cabs, omnibuses, drays, market-wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage, and property; and to license or suppress runners for steamboats, railroads, taverns, or hotels; and to fix and collect a license tax

upon all occupations and trades, and all and every kind of business authorized by law, not heretofore specified; and provided, that in the business of selling intoxicating drinks, wines, ales, and beers, in less quantities than one quart, or to be drank on the premises where sold, and on any other business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require; also to prevent and restrain any riot or riotous assemblage, disturbance of the peace, or disorderly conduct, in any place, house, or street in the city; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, or committing, or maintaining the same; to establish, maintain, and regulate a common pound for estrays, and to appoint a pound-keeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits, or any parts thereof; and to regulate or prevent the keeping of such animals within any part of the city; to control and regulate slaughter-houses, wash-houses, laundries, tanneries, forges, and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof; to provide, by regulation, for the prevention and summary removal of all filth and garbage in the streets, sloughs, alleys, back yards, or public grounds of such city, or elsewhere therein; to establish, alter, and repair city prisons, and to provide for the regulation of the same, and for the safe-keeping of persons committed thereto; to provide for the care, feeding, and clothing of the city prisoners; to provide for the formation of a chain-gang for persons convicted of crimes or misdemeanors, and their proper employment and compulsory working for the benefit of the city; and also to provide for the arrest and compulsory working of vagrants; to prohibit and suppress all gaming, and all gambling or disorderly houses, and houses of ill-fame, and all immoral and indecent amusements, exhibi-



tions, and shows; to establish and regulate markets and market-places; to fix and regulate the speed at which railroad cars may run within the city limits, or any portion thereof; to provide for and regulate the commons of the city; to regulate and prohibit fast driving or riding in any portion of the city; to regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters; to have, purchase, hold, use, and enjoy property of every name or kind whatsoever, and the same to sell, lease, transfer, mortgage, convey, control, or improve; to build, erect, or construct houses, buildings, or structures of any kind needful for the use or purposes of such city; to establish, continue, regulate, and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also to discontinue and disband said fire department, and to create, organize, establish, and maintain a paid fire department for such city; provided, that nothing in this chapter shall be construed to authorize the said city council to disband or discontinue the fire department of any city having, at the time of its organization under this act, a volunteer fire department organized and existing, or to create, establish, and maintain a paid fire department therein, without first submitting the proposition of establishing a paid fire department for such city to the legal voters thereof, at a general city election, for decision, and not after such election, unless thereat a majority of all the votes cast at such election are in favor thereof; and in the event that any time hereafter the volunteer fire department of such city shall be disorganized or disbanded, and a paid fire department established in its stead, then every person who shall have been an active fireman for the space of two years next before the date of such disbanding and establishing shall be entitled to and shall receive an exempt fireman's certificate, and such certificate shall entitle the person to whom it is issued to all benefits and immunities accorded by the laws of this state in re-

gard to exempt firemen; to institute and perfect any and all measures and means for the prevention or extinguishment of fires; to establish fire limits, and the same to alter at pleasure; to regulate or prevent the erection of wooden or other buildings or structures of combustible materials; to regulate the construction of buildings, sheds, awnings, signs, or any structures of a dangerous or unsafe character; to adopt, enter into, and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigating purposes therein; to prevent the overflow of the city, or to secure its drainage; to provide for the numbering of houses; to establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary, and provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace, and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments, and prohibit them within the city limits; to build, alter, improve, keep in repair, and control the water-front; to erect, regulate, and repair wharves, and to fix the rate of wharfage and transit wharf, and levy dues upon vessels and commodities, and to provide for the regulation of berths, landing, stationing, and removing of steamboats, sail vessels, rafts, barges, and all other water-craft; to fix the rate of speed at which steamboats and other steam water-craft may run along the water-front of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourse; to clear out and excavate sloughs and other watercourses or channels; to license steamers, boats, and vessels used in any watercourse in the city, and to fix and collect a license tax thereon; to license ferries and bridges under the law regulating the granting of such license; to determine and impose fines for forfeitures and penalties that shall be incurred for the breach or violation of any city ordinance, and also for a violation of the provisions of this chapter, when no penalty is affixed thereto or provided by law, and to appropriate all

such fines, penalties, and forfeitures for the benefit of the city; but no penalty to be enforced shall exceed, for any offense, the amount of five hundred dollars, or three months' imprisonment, or both; and every violation of any lawful order, regulation, or ordinance of the city council of such city is hereby declared a misdemeanor or public offense, and all prosecutions for the same may be in the name of the people of the state of California; to create and establish a city police, to prescribe their duties and their compensation, and to provide for the regulation and government of the same; to provide for conducting elections and establishing election precincts, when necessary; to examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management, or disposition of moneys, property, or business of the city; to make all appropriations, contracts, or agreements for the use or benefit of the city, and in the city's name; to provide by ordinance for the opening, laying out, altering, constructing, extending, repairing, grading, paving, graveling, macadamizing, or otherwise improving of public streets, avenues, and other public ways, or any portion of either thereof, and for the construction, regulation and repair of sidewalks, and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes, to establish a uniform grade for streets, avenues, sidewalks, and squares, and to enforce the observance thereof: to clear, cleanse, alter, straighten, widen, fill up, or close any waterway, drain, or sewer, or any watercourse in such city, when not declared by law to be navigable; to adopt, provide for, establish, and maintain a general system of sewerage, or drainage, or both, and the regulation thereof, the expense thereof to be borne by general taxation upon the taxable property and inhabitants of and in such city; to provide funds for the purpose aforesaid, and to determine manner, terms, and place of connection with main or central lines of

pipes, sewers, or drains established with funds derived from general tax, and compel compliance with and conformity to such general system of sewerage, or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against person and property, or either, for non-conformity to or failure to comply with the provisions of such system and regulations, or either; to provide for all public buildings, public parks, or squares, necessary or proper for the use of the city; to permit the use of the streets for railroad purposes; to order paid any final judgment against such city; but none of its lands, or property of any kind or nature, taxes, revenues, franchise, or rights, or interest, shall be attached, levied upon, or sold in or under any process whatsoever; to regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and prescribe his term of office, and the fees he shall receive for his services; provided, that such fees shall, in all cases, be paid by the parties requiring such service.

Indebtedness not to exceed means in the treasury.

Sec. 623. The city council shall not create, audit, allow, nor permit to accrue any debts or liabilities above the actual revenue and available means in the treasury that may be legally apportioned for such purpose, nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there shall be sufficient money in the treasury justly applicable to meet the same.

Council to audit demands.

Sec. 624. All accounts and demands that shall lawfully arise against the city shall be submitted to the city council, and if found correct shall be allowed, and an order be made that the demand be paid; upon which (if there be funds in the treasury as in the preceding section provided) the clerk shall draw a warrant, which shall be countersigned by the president of the city council, upon the treasurer, in favor of the owner or owners of the demand, specifying for what purpose and by what authority it is issued, and out of what fund

it is to be paid, and the treasurer shall pay the same out of the proper fund. All accounts and demands against such city, other than such as are chargeable to or payable out of the school fund, must be presented to the city council duly itemized, and accompanied with an affidavit of the party, or his agent, stating the same to be a true and legitimate claim against such city for the full amount for which the same is presented, and that the same accrued as set forth, and with all necessary and proper vouchers, within one year from the date the same accrued; and any claim or demand not so presented within the time aforesaid shall be forever barred, and said council shall have no authority to allow any account or demand not so presented in manner and time as aforesaid, nor shall any action be maintained against such city for or on account of any demand or claim against the same until such demand or claim shall have first been presented to the city council for action thereon.

#### Limitation of expenditure.

Sec. 625. The annual expenses of such city shall not exceed the sum of one hundred thousand dollars, except in cities where one per cent. on the valuation of the property therein raises more than the sum of one hundred thousand dollars, and in such cities the annual expenses shall not exceed the sum of one per cent. of the valuation of the property therein; provided, however, that moneys authorized to be raised and expended for the payment of the funded or bonded indebtedness of such city, and for school purposes in such city, as provided to be raised by the provisions of this chapter, shall not be considered a portion of said annual expense. If, at any time after the said sum shall have been expended in any year, it shall appear that the interests of such city demand an expenditure of an additional sum, the city council shall make a report of the same, which shall be published for at least three weeks in some newspaper printed and published in such city, particularly specifying the object or objects for which said expenditure is required, and the amount of money necessary to be raised to com-

plete the same. At any time within ten days after the expiration of said publication, the city council shall order an election, giving ten days' notice thereof, at which time those persons who are legal voters of such city may vote for or against a tax to raise such additional sum. The election shall be conducted and returns made and canvassed in all respects as the general elections of such city, and a majority shall determine if such tax be levied or not. If the vote is in favor of such tax, the city council shall forthwith, by an order to be entered on the journal of their proceedings, order the tax to be levied and collected upon the basis of the last municipal assessment, and shall make the proposed expenditure; provided, that the special tax thus to be levied shall, for no one year, be more than one per cent. of the valuation of real and personal property in the city, as shown by the last assessment roll. All special taxes to be levied and collected under the provisions of this section shall be levied and collected in the manner, form, and ways prescribed for the levying and collecting of the general taxes of such city; and as a security for their payment, a lien shall attach to and against each lot of land for the amount assessed against it from the date of the order; and every person, firm, or corporation against whom a tax be thus assessed shall be personally liable to pay the amount to such city. Said lien shall continue until such taxes are paid, or the property become vested in a purchaser under a sale thereof. [Amendment approved March 19, 1889; Stats. 1889, p. 371; in effect immediately.]

Excessive expenditure void.

Sec. 626. Every appropriation or payment of money made or ordered by the city council in excess of said sum stated in section six hundred and twenty-five, unless it shall be authorized by a vote of the electors of such city, as provided for in the preceding section, shall be invalid, illegal, and void, and shall be recoverable by the city from the party or parties to whom the same is made, if knowingly taken or received by such party or parties; and the members of the city council who



shall have voted for the same shall be individually, jointly, and severally liable for such excess, and it may be recovered from them in any court of competent jurisdiction by the party or parties with whom they have contracted, or by the city, if payment has been actually made. [Amendment approved March 19, 1889; Stats. 1889, p. 371; in effect immediately.]

Public streets.

Sec. 627. All the streets in such city that have been or shall hereafter be laid out and dedicated by the party or parties owning the land fronting upon the same, or by the authority of such city, and declared to be public streets, and that have been or shall hereafter be used as such, shall be and are hereby declared public streets to the extent that the same may have been or shall hereafter be used, laid out, or dedicated.

Contracts for works and materials.

Sec. 628. All contracts for work to be performed, or materials to be used, ordered by or for such city, or in which it is interested, may be, and when the cost exceeds five hundred dollars shall be, let to the lowest bidder. A notice, signed by the clerk, soliciting sealed proposals, shall be published a reasonable time, in no case less than ten days, prior to the time fixed for opening such bids. Such notice shall designate the work to be done, and the place and the time in which it may be performed and such other specifications as may tend to give the bidders a knowledge of the object to be accomplished, and with a reference to the diagram or specifications on file in the clerk's office. On the day limited in said notice for the opening of said bids the council, or a committee therefor appointed, shall, in open meeting, open and declare said bids and award the contract to the lowest responsible bidder; provided, however, that the city council, or its committee, may reject all bids when considered too high or uncertain from any circumstances. The council or committee may, before considering any offer, require security that the party will enter into a contract if awarded to him; and all contracts shall be in writing, and accompanied with a bond satisfac-

tory to the mayor. No officer of such city shall be interested in any contract to which the city is a party, and any contract contrary to the provisions hereof shall be void.

Improvement of public highways.

Sec. 629. The city council is authorized and empowered to establish, lay out, alter, open, improve, and repair streets, avenues, sidewalks, alleys, bridges, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or upon any part thereof; to cause to be planted, set out, and cultivated, shade trees along the lines thereof or therein, and generally to manage and control all such highways and places.

Apportionment of expense.

Sec. 630. The city council shall have the power to provide by ordinance for doing any or all work in or upon the streets, avenues, highways, and public places of such city, and for making therein street improvements and repairs, or for the preservation thereof, and for doing any or all work thereupon or therein authorized by this chapter; and for the payment of the cost and expenses thereof by the levy and collection of special assessments therefor upon the property to be affected or benefited thereby. That is to say, the expense or cost of any work or improvement upon the streets, avenues, or public ways of such city shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full debt thereof in proportion to the benefits upon the property to be benefited sufficient to cover the total expense of the work to the center of the street on which it fronts. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street-crossings or crossways, shall be paid by such city. In all the streets constituting the water-front of

such city, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets from the center line thereof to the said water-front, or to such property of the city bounded thereon, shall be provided for by such city, but no contract for any such work shall be given, except to the lowest responsible bidder, and in the manner hereinbefore provided. When any work or improvement mentioned in this section is done or made on one side of the center line of said streets, avenues, or public ways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work, according to the provisions of this chapter.

Enacting clause.

Sec. 631. The style of the city ordinances shall be as follows: "The mayor and city council of the city of — do ordain as follows;" and all ordinances shall be published in one or more of the newspapers published in the city.

Publication of ordinances.

Sec. 632. By-laws and ordinances shall be passed by the city council and approved by the mayor, or the president of the city council acting in his stead. But before any by-law or ordinance shall have any binding validity, it shall be published in one or more newspapers published in the city, and recorded in the record-book to be kept by the clerk. The clerk shall certify on the record the fact of publication, and so certified, the record shall be prima facie evidence of the passage thereof, and may be read as evidence of the by-law or ordinance, and its publication. A printed copy of any ordinance or by-law, or a compilation thereof, printed by authority of the city council, and attested by the clerk, shall be evidence thereof in same manner and with like effect.

Entry on journal.

Sec. 633. All orders of the city council, to have force and legal validity, shall be entered on the journal of their proceedings, which journal shall be signed by the officer who may preside at such meeting.

Ayes and noes.

Sec. 634. Upon the passage of all ordinances appropriating money, imposing taxes, abolishing

licenses, increasing or lessening the amount to be paid for licenses, the ayes and noes shall be entered upon the journal.

Majority necessary.

Sec. 635. A majority of all the members elected shall be necessary to pass any ordinance appropriating for any purpose the sum of five hundred dollars or upwards, or any ordinance imposing any assessment, tax or license, or in any wise increasing or diminishing the city revenue.

Free library.

Sec. 636. The trustees of any free public library, created or existing in such city under the provisions of an act entitled "An act to establish the public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, shall be appointed by the city council in the same manner as other officers are appointed under the provisions of this chapter, anything in the provisions of said act to the contrary notwithstanding.

#### Article IV.—Taxation.

Tax levy.

Sec. 640. The city council shall have full power and authority to assess, levy, and collect annually taxes upon all the property within the city, taxable for state purposes, not exceeding one per cent upon the assessed value thereof, which shall be paid into the general fund for current expenses. They shall provide for the payment of the principal and interest of the bonded indebtedness, if any, of such city, and for the payment of the other indebtedness of such city not funded; and they shall each year levy, assess, and collect an additional tax upon the taxable property as aforesaid, not exceeding two per cent. in any one year, which, when collected, shall be paid into a fund to be disbursed as follows:

1. To pay the interest on said bonds;
2. To a fund for the payment of the principal thereof; and,
3. To meet any indebtedness, as aforesaid, not funded.

And the city council, in making said levy, shall estimate the proportion requisite for each fund, and the same shall be expended, under the direction of the city council, for the purpose aforesaid, and for no other purpose. Said tax shall be levied, assessed, and collected upon all property liable to taxation within such portion and such limits, and so much of the territory of such city as shall be liable therefor under the laws and charters in existence at the time of the organization of such city under this act; and if, by reason of extension of territory, or from any cause, a portion only, or a certain district, of such city be liable, under said laws and charters, for the payment of the bonded and other indebtedness above named, or any portion of either thereof, the city council in levying such tax shall make such levy upon and against the property which is situated and persons who may reside in the territory of such city, liable in each case for the payment of such indebtedness, or any particular class or portion thereof, according to such existing laws and charters. The city council shall also have power to raise annually, by tax upon all the property within the city taxable for state purposes, whatever amount of money may be requisite for the support of free public schools therein, including high-schools, and providing and furnishing houses therefor; but the tax provided for in this section shall not exceed thirty-five cents on each one hundred dollars valuation upon the assessment roll in any one year, and may, in like manner, raise by tax a fund for the establishment and maintenance of a free public library and reading-room; such tax not to exceed, in any one year, the rate of ten cents on each one hundred dollars valuation.

Duty of assessor.

Sec. 641. It shall be the duty of the city assessor to prepare, between the first day of January and the first Monday in April in each year, and present to the city clerk, with his certificate of its correctness, a list of all the real and personal property within the city on the first day of January taxable for state and county purposes, with a true valuation thereof on the first day of January,

which said assessment list shall conform as near as practicable, when not inconsistent with the provisions of this chapter, to the assessment list required by law to be made by the county assessor for state and county purposes; also, to make all assessments for the improvements of streets as herein or by ordinance provided; to be present at the sessions of all boards of equalization mentioned in this chapter, and to furnish to said board such information as may be required, and to perform such other services in reference to the assessments of property in the city or otherwise appertaining to his office as the city council by ordinance or resolution may require. During the session of the board of equalization the city assessor shall enter upon the assessment list all the changes and corrections made by the board, and may assess and add to such list any property in such city not previously assessed. In the assessment and listing of property for taxation, and in the collection of tax upon personal property not secured by lien upon real estate, he shall have and may exercise the same powers as are conferred by law upon county assessors, and shall receive therefor the same fees and compensation. He shall receive a salary to be fixed by the city council, which shall not exceed five hundred dollars per annum. [Amendment approved March 19, 1889: Stats. 1889, p. 371; in effect immediately.]

Equalization.

Sec. 642. The city council, or a committee of their number selected for that purpose by the city council, at a meeting thereof to be held on the first Monday of April of each year, shall constitute a board of equalization, and shall, after the assessor shall have completed and handed in his assessment list to the city clerk, and after five days' notice published in some newspaper in such city, hold meetings to hear and determine all complaints respecting the valuation of property as fixed by the assessor in such list, and shall have power, on their own motion, with or without complaint made, to modify and change such valuation in any way they shall deem just and proper; provided, however, that before making any change in any assessment, the board shall notify the per-



son interested by letter, deposited in the post-office or express, postpaid, and addressed to such person, at least three days before action taken, of the day fixed when the matter shall be investigated; provided, further, that no reduction must be made in the valuation of property, unless the party affected thereby, or his agent, makes and files with the board a written application therefor verified by his oath, showing the facts upon which it is claimed such reduction should be made. Any member of said board shall have power to administer oaths and affirmations in the matters before said board, and the sessions of said board shall be held from time to time, as in its notice specified, for the period of two weeks, and no longer.

Clerk to complete.

Sec. 643. After the board of equalization shall have completed their duties, the city clerk shall add up the columns of valuation, and enter the total valuation of each description of property in the list, and the total value of all property assessed and listed thereon; and thus equalized and added up, the clerk shall, on the first Monday of May thereafter, deliver it to the city council.

Levy of the tax.

Sec. 644. On the first Monday in May in every year the city council, by an ordinance, shall levy upon all the property in the city taxable by law for state purposes a tax for school purposes, and for the current and general expenses of the city; and, in conformity to the provisions of this chapter, shall levy any and all other taxes by law directed then to be levied or assessed; and, in conformity with the provisions of this chapter, shall levy a tax for the payment of the funded debt upon the property liable therefor. Every tax so levied is made a lien, which shall attach on said day in each year to and against all real property assessed for the amount assessed against it; and if said property be assessed to a wrong person, or by a wrong name, said lien shall in no wise be affected or invalidated, and it shall not be satisfied or removed until the taxes are paid, or the property has absolutely vested in a purchase"

under and by reason of a sale for such taxes. Every tax assessed upon personal property is a lien upon the real property of the owner thereof from and after the time of the levy of such tax. The fiscal year shall begin on the first day of January; and the terms "real and personal property" shall have the same meaning as the same terms used in the revenue laws of the state.

List to be delivered to collector.

Sec. 645. As soon as the city council have declared and levied the taxes in any year, as in the preceding section provided, the city clerk shall carry out, in a separate money column in the list, the amount of taxes assessed against each individual, firm, company, corporation, or unknown owner, and add and put down the aggregate of all taxes as shown by the list; and as thus carried out, the city clerk shall certify to its correctness, and on or before the third Monday of May thereafter deliver it to the city collector, and shall charge him with the amount of taxes so footed up, and take his receipt therefor.

Collection.

Sec. 646. The collector, on receiving the assessment list certified by the clerk, shall proceed to collect the taxes specified therein, and pay over the same into the treasury, taking a receipt thereof. For the purpose of collecting the taxes authorized by this chapter, the city collector shall have such powers as are given by the revenue laws of this state to collectors of state and county taxes, so far as the same are applicable. All taxes unpaid at the close of official business on the third Monday of June shall be deemed delinquent, after which time the collector shall receive no money for taxes; and he shall, on said day, enter upon assessment roll a levy upon all property therein assessed the taxes upon which remain unpaid, and shall immediately ascertain the total amount of taxes unpaid, and file in the office of the city clerk a list of all persons and property then owing taxes, verified by his oath, which list shall be known as the delinquent list.

Delinquencies.

Sec. 647. On the third Monday in June of each year, at six o'clock p. m., all unpaid taxes are de-

linquent, and thereafter the collector must collect thereon, for the use of the city, an addition of five per cent.

#### Delinquent list.

Sec. 648. On the first Monday in July of each year, the city collector must deliver to the city clerk a complete delinquent list of all persons and property then owing taxes; and in the list so delivered must be set down in numerical or alphabetical order all matters and things contained in the assessment roll and relating to delinquent persons or property.

#### Verification.

Sec. 649. The city clerk must carefully compare such delinquent list with the assessment roll, and if satisfied that it contains a full and true statement of all taxes due and unpaid, he must foot up the total amount of taxes so remaining unpaid; credit the city collector therewith, and make a final settlement with him of all taxes charged against him on the assessment roll; and must require from him the treasurer's receipt for the full amount of taxes collected.

#### Certification.

Sec. 650. After settlement with the city collector, as prescribed in the preceding section, the city clerk must charge the city collector with the amount of taxes due on the delinquent tax list, with the five per cent added thereto, and within three days thereafter deliver the list, duly certified to such city collector.

#### Publication.

Sec. 651. On or before the third Monday in July of each year, the city collector must publish the delinquent list, which must contain the names of the persons and a description of property delinquent, and the amount of taxes and costs due, opposite each name and description, with the taxes due on personal property, added to taxes on real estate where the real estate is liable therefor, or the several taxes are due from the same person. To said list must be appended and with it published a notice that unless the taxes delinquent, together with the costs and percentage, are paid, the real property upon which such taxes are a lien will be sold at public auction, and designating

therein the time and place of such sale, which must take place in or in front of the city collector's office, and not less than fourteen nor more than twenty-one days from the first publication.

Collector to certify.

Sec. 652. Said list must be published three times a week for two successive weeks in some newspaper or supplement thereto published in such city, and when such publication is completed, and before commencing the sale, the city collector must file with the city clerk a copy of the publication, with his affidavit attached thereto, that it is a true copy of the same, that the publication was made in a newspaper or a supplement thereto, stating the name and place of publication; such affidavit shall be prima facie evidence of all the facts therein stated. The expense of the publication of the delinquent list is to be paid by the city.

Additional amount.

Sec. 653. The city collector must collect, in addition to the taxes due on the delinquent list, and five per centum added thereto, fifty cents on each lot, piece, or tract of land separately assessed, and on each assessment of personal property, one half of which must go to the city, and the other to the city collector, in full for preparing the list.

Sale.

Sec. 654. On the day fixed for the sale, or on some subsequent day to which he may have postponed it, of which he must give notice, the city collector, between the hours of ten o'clock a. m. and three p. m., must commence the sale of the property advertised, commencing at the head of the list, and continuing alphabetically, or in the numerical order of lots and blocks, until completed.

Postponement.

Sec. 655. He may postpone the day of commencing the sale, or the sale, from day to day; but the same must be completed within two weeks from the day first fixed.

Owner may designate portion.

Sec. 656. The owner or person in possession of any real estate offered for sale for taxes due

thereon may designate, in writing, to the city collector, prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or the possessor does not, then the collector may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the taxes and costs due, including fifty cents to the city collector for the duplicate certificate of sale, is the purchaser.

#### Duplicate certificate.

Sec. 657. After receiving the amount of the taxes and costs, the city collector must make out in duplicate a certificate, dated on the day of sale, stating (when known) the name of the person assessed, a description of the land sold, the amount paid therefor, that it was sold for taxes, giving the amount and year of the assessment, and specifying the time when the purchaser will be entitled to a deed.

#### Delivery.

Sec. 658. The certificates must be signed by the collector, and one copy delivered to the purchaser, and the other filed in the office of the county recorder.

#### Record of sales.

Sec. 659. The city collector, before delivering any certificate, must in a book enter a description of the land sold, corresponding with the description in the certificate, the date of sale, purchaser's name, and amount paid, regularly number the descriptions on the margin of the book, and put a corresponding number on each certificate. Such book must be open to public inspection, without fee, during office hours, when not in actual use.

#### Lien vested in purchaser.

Sec. 660. On filing the certificate with the county recorder, the lien of the city vests in the purchaser, and is only divested by the payment to him, or to the city treasurer for his use, of the purchase money, and fifty per cent thereon.

#### Redemption.

Sec. 661. A redemption of the property sold may be made by the owner, or any party in interest.

within twelve months from the date of the purchase.

#### Records of redemption.

Sec. 662. On receiving the certificate of sale, the recorder must file it, and make an entry in a book similar to that required of the collector. On the presentation of the receipt of the person named in the certificate or of the city treasurer for his use, of the total amount of redemption money, the recorder must mark the word "redeemed," the date, and by whom redeemed, on the certificate, and in the margin of the book where the entry of the certificate is made.

#### Purchaser's deed.

Sec. 663. If the property is not redeemed within the time allowed by law for its redemption, the city collector, or his successor in office, must make to the purchaser, or assignee, a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person has redeemed the property during the time allowed for its redemption. The collector shall be entitled to receive from the purchaser three dollars for making such deed.

#### What the deed proves.

Sec. 664. The matters recited in the certificate of sale must be recited in the deed, and such deed duly acknowledged or proved is prima facie evidence that:

1. The property was assessed, as required by law;

2. The property was equalized, as required by law;

3. The taxes were levied in accordance with law;

4. The taxes were not paid;

5. At a proper time and place the property was sold, as prescribed by law, and by the proper officer;

6. The property was not redeemed;

7. The person who executed the deed was the proper officer;

8. Where the real estate was sold to pay taxes on personal property, that the real estate belonged to the person liable to pay the tax.



Deed is evidence of regularity.

Sec. 665. Such deed, duly acknowledged or proved, is (except as against actual fraud) conclusive evidence of the regularity of all other proceedings, from the assessment by the assessor, inclusive, up to the execution of the deed, and conveys to the grantee the absolute title to the lands described therein, free from all incumbrances.

Assessment roll a guarantee of regularity.

Sec. 666. The assessment roll or delinquent list, or a copy thereof, certified by the city clerk, showing unpaid taxes against any person or property, is prima facie evidence of the assessment, the property assessed, the delinquency, the amount due and unpaid, and that all the forms of law in relation to the assessment and levy of such taxes have been complied with.

## Article V.—Executive Department.

Duties and powers of mayor.

Sec. 670. The mayor shall be the chief executive officer of the city. He shall have a general supervision over the several departments of the city government, and over all its interests, shall preside over the city council when present, once in three months submit a general statement of the condition of its various departments, and recommend to the city council such measures as he may deem expedient for the public good, or improvement of the city, its finances, or government. He shall sign all ordinances passed by the city council, if he approves them; if he does not approve, he shall, within eight days after its submission to him, return the same to the city clerk's office, with his objections in writing, and at the first meeting of the city council thereafter the same shall be entered upon their journal, and they shall then reconsider such ordinance, and unless two-thirds of the councilmen elect, vote for its passage, it shall not become a law. If the mayor shall not so return any ordinance within eight days, it shall become a law as if he had signed it. He may call special meetings of the city council at any time;

he shall do so at the written request of four councilmen, by notifying each member personally, or by a written notice left at his last and usual place of abode, or at his place of business during business hours, stating the purpose of such meeting.

President of council.

Sec. 671. The president of the city council shall preside at all its meetings when the mayor is not present: and whenever there is a vacancy in the office of mayor, or he is absent from the city, or unable, from any cause, to discharge the duties of his office, the president shall act as mayor and exercise all his authority and be subject to his duties. He shall countersign all warrants and licenses issued under and by authority of the city, but in his absence or inability to perform said duty, the mayor, or, if he is absent or unable to perform said duty the president pro tem., or if none has been elected the chairman of the finance committee, may sign the same.

Deputies.

Sec. 672. The chief of police, city attorney, city assessor, city clerk, and city collector, and street commissioner may each, with the approval of the city council, only appoint such deputies as may be necessary, by writing, to be filed with the clerk. Each deputy so appointed shall receive for his services a compensation to be fixed by the city council, not exceeding one hundred dollars per month, and shall perform such duties under the direction of his principal as may by said council be prescribed. The principals shall be each responsible for his deputy, and may revoke the appointment at pleasure.

Chief of police.

Sec. 673. The chief of police shall receive a salary which shall not exceed the sum of one thousand five hundred dollars per annum, to be determined by the city council.

Treasurer.

Sec. 674. The city treasurer shall receive a salary which shall not exceed the sum of three hundred dollars per annum, to be determined by the city council.

**Duties of treasurer.**

Sec. 675. It shall be the duty of the city treasurer to receive and safely keep all moneys belonging to such city, from whatever source derived, to place the same to the credit of the different funds to which they properly belong, in a book kept for that purpose; to disburse said moneys by the direction of the city council, and in accordance with the provisions made by them, and the school fund, by the direction of the board of education, under the provisions of this chapter, and to make a report monthly to the city council of the condition of the treasury.

**Clerk.**

Sec. 676. It shall be the duty of the clerk of the city to keep the corporate seal and all papers and documents belonging to the city; to file them in his office, under appropriate heads; to attend the sittings of the city council and to keep a journal of their proceedings and records of all their by-laws, resolutions, and ordinances; to sign all warrants and licenses issued in pursuance of the orders and ordinances of the city council, and to affix the corporate seal on such licenses; to keep an accurate account in a suitable book, under the appropriate heads, of expenditures of all orders drawn upon the city treasurer, and all warrants issued in pursuance thereof; also, to keep an account in an appropriate book of all licenses issued, with the names of the persons to whom issued, the date of issue, the time for which the same was granted, and the sums paid therefor, and to perform such other duties as he may be required to perform by the provisions of this act, or by ordinance. He shall receive for his services a salary to be fixed by the city council, not exceeding the sum of one hundred dollars per month.

**Assessor.**

Sec. 677. It shall be the duty of the city assessor to prepare the assessment rolls, lists, and books, and to make the assessment of persons and property in said city as required by this chapter; also to make and present all assessments for improvement of streets, or other work of like character. He shall receive a salary, to be fixed by the city

council, not exceeding five hundred dollars per annum.

Collector and commissioner.

Sec. 678. The city collector and street commissioner shall collect all taxes, assessments, licenses, wharfage rates, and all other moneys or dues owing, accruing, belonging, or coming to said city, and the same shall pay over monthly to the city treasurer, unless otherwise ordered by the city council. He shall regulate the landing and stationing of all steamers, vessels, boats, or other water-craft, and shall make report to the city council each month. As street commissioner, he shall have the general supervision of all streets, public squares, levees, wharves, sloughs, drains, waterways, bridges, sidewalks, cross-walks, and public buildings, and shall superintend all work, repairs, or improvement thereof or thereon. At the request of the street committee of the city council, he shall make report to them of any of his doings, and shall do and perform all such other duties as may be required of him by ordinance of the city council. As street commissioner of such city, he is hereby authorized, in his official capacity, to make all written contracts, and receive all bonds authorized in this chapter, and to do any other act, either expressed or implied, that pertains to the street department under this chapter. He shall fix the time for the performance of the work under all contracts entered into by him, in accordance with the notice given by the council; and may extend the time so fixed, from time to time, under the direction of said council. All work upon the streets, avenues, or in the matter of sidewalks or bridges, or in the improvement of the public buildings, squares, and places of said city provided for in this chapter; or under the orders or ordinances of the city council of such city, must in all cases be done under the direction and to the satisfaction of the street commissioner, and the materials used shall be such as are required by said commissioner, in accordance with the contracts; and all contracts made therefor must contain this condition, and also express notice that in no case, except when it is otherwise provided in this chapter, will the city be liable for any por-

tion of the expense, and where such expense is defrayed by assessments, in no case for any delinquency of persons or property assessed.

**Police force.**

Sec. 679. The police force of such city shall consist of the chief of police, and such number of policemen as shall from time to time be fixed and determined by the city council.

**Police, commission to elect.**

Sec. 680. The policemen of such city shall be elected by a police commission, to consist of the mayor, chief of police, and the police judge; and such policemen shall hold office from and after their election to and including the second Monday in January next ensuing after a regular city election, unless sooner removed for cause.

**Trial commission.**

Sec. 681. The president of the city council, the chairman of the finance committee, and the chairman of the street committee of the city council shall constitute a police trial commission, and such commission shall have power, under rules of procedure to be prescribed by ordinance of such city, to receive, hear, try, and determine all complaints against policemen of such city for violation of official duty, or of any rule, regulation, by-law, or ordinance of such city, and shall have power in such behalf to condemn or acquit, reprimand, suspend, or remove any policeman.

## Article VI.—Judicial Department.

**Police court.**

Sec. 690. A police court is hereby established in such city, which court shall always be open, except upon non-judicial days, and upon such days may transact criminal business only.

Sec. 691. The police court of such city shall have jurisdiction of the following public offenses committed within such city:

1. Petit larceny;
2. Assault or battery, not charged to have been committed upon a public officer in the discharge of his official duty or with intent to kill;

3. Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors punishable by fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment;

4. Of proceedings respecting vagrants, loud or disorderly persons;

5. Of all proceedings for violation of any ordinance of said city, both civil and criminal; of any and all suits to recover taxes, general or special, levied in such city for city purposes, and of all suits to recover any assessment levied in such city for the improvement of streets, avenues, levees, sidewalks, and public squares, and for the opening or laying out of the same, when the amount of said tax or assessment sought to be collected against the person, firm, or corporation assessed is less than three hundred dollars; provided, no lien upon the property taxed or assessed for the non-payment of the taxes or assessment is sought to be foreclosed by said suit;

6. Of an action for the collection of money due to such city, or from the city to any person, firm, or corporation, when the amount sought to be collected is less than three hundred dollars;

7. Of an action for the breach or violation of any official bond given by any city officer, and for the breach of any contract, and any action for damages in which the city is a party, or is in any way interested and on all forfeited recognizances given to or for the benefit or in behalf of such city, and upon all bonds given upon any appeal taken from the judgment of said court in any action above named, when the amount claimed, exclusive of cost, is less than three hundred dollars;

8. Of an action for the recovery of personal property belonging to the city when the value of the property, exclusive of the damages for the taking or detention, is less than three hundred dollars;

9. Of an action for the collection of any license required by any ordinance of the city;

10. The police court shall have exclusive jurisdiction of all proceedings mentioned in this sec-



tion; and no justice of the peace in such city shall have power to try and decide any cases of the classes mentioned in said section; provided, that any justice of the peace of such city who may be designated in writing by the mayor, or president of the city council thereof, for the purpose, shall have power to preside in and hold the police judge's court of said city in the cases in which the police judge is a party, or in which he is directly interested, or when the judge is related to either party by consanguinity or affinity within the third degree; and also in the case of the sickness or temporary absence of the judge, or his inability to act from any cause; and in all such cases, and during such sickness, temporary absence, or inability, the justice so designated shall act as police judge, and shall have and exercise all the powers, jurisdiction, and authority which are or may be by law conferred upon said court or judge.

#### Powers of judge.

Sec. 692. The judge of said court shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the proper court, and may try, condemn, or acquit, and carry his judgment into execution, as the case may require, according to law; and to punish persons guilty of contempt of court, and shall have power to issue warrants of arrest in cases of a criminal prosecution for the violation of a city ordinance, as well as in case of the violation of the criminal law of the state; also, all subpoenas and all other processes necessary to the full and proper exercise of his powers and jurisdiction in all criminal trials before the police judge for the violation of a city ordinance, as well as in cases of a violation of the criminal law of the state, made triable before such court; the defendant shall be entitled, if demanded by him, to a jury trial, but a trial by jury may be waived by the defendant in all such cases, and upon such waiver the court shall proceed and try the case.

#### Dockets.

Sec. 693. The city council shall furnish, for the use of the police court, two dockets; one shall be styled "The city criminal docket," in which all

the criminal cases shall be recorded, and each case shall be alphabetically indexed; the other shall be styled "The city civil docket," and it shall contain a record of every civil case which is prosecuted before said court, and each case shall be properly indexed, and in all cases the dockets shall contain all such entries as are required by law to be made in the justice's docket; and in any case commenced or tried before the court the docket must show what duties were performed by each officer, and the amount of fees due to the officer for such services, and the amount of money, if any, collected.

#### Appeals.

Sec. 694. Appeals from the police court may be taken to the superior court of the county in all cases cognizable by the said police court, and such appeals shall be taken as in case of appeal from a justice's court.

#### City and district attorney.

Sec. 695. The city attorney of such city shall prosecute all cases for the violation of any lawful order, regulation, or ordinance of the city council, and shall prosecute, conduct, and control all proceedings in cases mentioned in section six hundred and twenty-two of this act, both in the police court and on appeal therefrom to the superior court, but the district attorney shall attend and conduct all proceedings of the nature of a preliminary examination before said police court.

#### Incarceration.

Sec. 696. In all cases when the police court is authorized to impose a fine or imprisonment, or both, upon persons convicted in said court of any offense triable therein, the said court may sentence the offender to be imprisoned in the city jail, if there be one established by the city council, if not, then until said council shall designate and establish a city jail or prison, may sentence offenders to be imprisoned in the county jail, and in addition to imprisonment, may sentence offenders to be employed to labor in the city, under the direction of the chief of police, and in the manner prescribed by ordinance, for the benefit of the city,

during such time of imprisonment, and may, in imposing a fine, embrace as a part of the sentence that, in default of the payment of such fine, the defendant shall be imprisoned and required to labor for the benefit of the city as before provided, at the rate of two dollars a day, till such fine is satisfied. Offenders required to labor under the direction of the chief of police shall, until the establishment of a city jail, be returned to the county jail at the end of each day's labor during their term of imprisonment, until a city jail shall be by the city council established. It is hereby made the duty of the officer having the control or charge of the county jail of the county wherein such city is situated, to receive and safely keep all persons imprisoned by any judgment or order of the police court, in accordance with the order of commitment, and to allow those to be removed from the jail under the charge of the chief of police, who are required to labor for the benefit of the city, or whom the police judge may order brought forth for trial, and the keeper of the jail shall in no way be responsible for the safekeeping of such prisoners while so under the charge of the chief of police.

Seal.

Sec. 697. The court shall have a seal, to be provided by the city, and certified transcripts of the police judge's docket and the seal of his court shall be evidence in any court of the state of the contents of the docket; and all warrants, and other processes issued out of said court, and all acts done by said police judge under its seal, shall have the same force and validity, in any part of this state, as though issued or done by any court of record of this state.

Judge's report.

Sec. 698. The police judge shall, on the last Saturday of each month, make to the city council a full report of all the cases tried in his court for that month, in which the city may be interested, and at the same time shall pay into the city treasury all fines and other moneys collected on behalf of the city for such month.

**Salaries.**

Sec. 699. The city council of such city shall allow to the police judge an annual salary which shall not exceed the sum of fifteen hundred dollars, and to the chief of police and the several policemen of such city each a salary which shall be fixed by said council. The salaries of the police judge, and chief of police and policemen shall be paid from time to time as other city officers and as the council may determine. The chief of police, or any policeman of such city, is hereby authorized and empowered to serve, execute, and return any and all warrants of arrest, and all processes directed to him by the police judge of said city, and to arrest all persons accused or guilty of the violation of any city ordinance, or of any public offense, and to do and perform all acts and duties which, in criminal cases, any constable of the county may lawfully do, and receive like fees for such services; provided, the city council may, in their discretion, deduct the amount so received, for fees from the monthly salary of such officers, or order the same paid into the city treasury for the use and benefit of the city, as received by said officers respectively; provided, that nothing in this charter shall be construed as authorizing or entitling such officers to charge or receive from such city, or the county wherein situated, any fees or costs in any case whatever, nor shall such city or county be liable to pay any fees, or costs to such officers for any service they may render in any action or proceeding, either civil or criminal. The chief of police shall attend the session of the police court when required, supervise and direct the police force of the city, and perform such other duties as may be required by the city council appertaining to the government of the city or the management of its affairs, not especially devolved upon some other officer named in this chapter; and the chief of police, or any policeman, at his discretion, shall serve all notices by this chapter provided to be served, in which the city is in any way interested, and the return of the officer serving shall be evidence of the facts in such return stated, but none of such officers shall serve or execute any civil process, except as provided in this chapter.

Powers of justices.

Sec. 700. The justices of the peace in and for the township embracing such city shall have the same powers as the same officers in any justice's court of the county, and shall have and may exercise like powers and authority; provided, however, that no justice of the peace in such city shall have power to conduct or try and decide any proceedings or cases of the classes mentioned in section six hundred and twenty-two of this act; but nothing in this section shall be construed to prevent any of the justices in said city from acting as police judge.

Interested party not disqualified.

Sec. 701. The interest which any inhabitant of such city may have in a penalty for the breach of a by-law or ordinance of such city shall not disqualify said inhabitant to act as judge, juror, or witness in any prosecution to recover the penalty.

## Article VII.—School Department.

**Board.**

Sec. 710. The board of education of such city shall be elected as in this chapter provided, and shall consist of one superintendent and two trustees from each ward in the city.

**Superintendent.**

Sec. 711. The superintendent shall be ex officio secretary of the board of education, and shall receive for his services a salary which shall not exceed eighteen hundred dollars per annum. He shall report to the city council, annually, on or before the first Monday in January, and at such other times as they may require, all matters pertaining to the expenditures, income, condition, and progress of the public schools of the city during the preceding year, together with such accommodations as he may deem proper, and shall, at the regular meeting of the board of education in June of each year, submit to the board a detailed statement of the amount, as near as may be ascertained, of fuel, blanks, blank-books, apparatus, sta-

tionery, and such other articles, materials, or supplies, including books for indigent children, as may be necessary for the use of the city schools and the board for one year following. He shall have power to administer oaths and affirmations concerning any demand upon the treasury payable out of the school fund, or other matters relating to his official duties. [Amendment approved March 14, 1885. In force from and after its passage.]

#### Advertisement for supplies.

Sec. 712. The board of education shall, upon the receipt of the statement from the superintendent, as in the preceding section provided, advertise for the space of five successive days in some newspaper published in such city, for sealed proposals for furnishing the articles in said statement specified. Said advertisement shall designate a day after the expiration of the publication aforesaid when said proposals will be considered, at which time the board or a committee thereof by the board for such purpose designated, shall meet and publicly open and declare the proposals received and shall thereupon award the contract therefor to the lowest responsible bidder or bidders, in each case; provided, that all bids may be rejected if deemed too high. Said board may, in their discretion, require a good and sufficient bond with two or more sureties, to be filed by each bidder, in the sum of two hundred dollars, conditioned for the fulfillment of his proposal in case of the acceptance thereof.

#### Powers of board.

Sec. 713. Subject to and in accordance with the directions and provisions of this chapter, the board of education shall have full power:

#### Establish schools.

1. To establish and maintain public schools, including high schools, and fix and alter the boundaries of the district thereof.

#### Employees.

2. To employ and dismiss teachers, janitors, and other necessary help, and to fix, alter, allow, and order paid their salaries or compensation, and to employ and pay such mechanics and laborers as



may be necessary to carry into effect the powers and duties of the board, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

#### Regulation of schools.

3. To make, establish, and enforce all necessary and proper rules and regulations not contrary to law, for the government and progress of the public schools within the city, the pupils therein and the teachers thereof, and for carrying into effect the laws relating to education; also; to establish and regulate the grade of schools, and determine what course of study and mode of instruction shall be used in said schools.

#### Building and repairs.

4. To build, alter, repair, rent, and provide school-houses, and the same furnish with lights, water, proper school furniture, apparatus, and school appliances, and to insure any and all school property.

#### Real estate.

5. To receive, purchase, lease, and hold in fee, in trust for such city, any and all real estate; and to hold in trust any personal property that may have been or may hereafter be acquired for the use and benefit of the public schools of such city.

#### Improvements.

6. To grade, fence, and improve school lots, and in front thereof to grade, sewer, plank, or pave and repave, and to construct and repair sidewalks.

#### Legal privileges.

7. To sue for any and all lots, lands, and property belonging to or claimed by the said school department, and to prosecute and defend all actions at law or in equity necessary to recover and maintain the full enjoyment and possession of said lots, lands, and property, and to employ and pay counsel in such cases.

#### To determine amount of money needed.

8. To determine annually the amount of taxation, not exceeding thirty-five cents on each one hundred dollars valuation on the assessment roll, to be raised upon the real and personal property

within the city not exempt from taxation, for the establishment and support of free public schools therein; and for carrying into effect all the provisions of law regarding public schools, and the amount so determined by said board of education shall be reported in writing to the city council on or before the first Monday of April of each year; and the said city council are hereby authorized and required to levy and cause to be collected, at the time and in the manner of levying other city taxes, the amount of taxation so determined and reported to them by the said board of education, as school tax, upon all taxable property in the city and said tax shall be in addition to all other amounts levied for city purposes.

#### Disbursements.

9. To establish regulations for the just and equal disbursement of all moneys belonging to the "public-school fund."

#### Demands.

10. To examine and allow, in whole or in part, every demand payable out of the school fund, or to reject any such demand for good cause, of which the board shall be sole judge.

#### Incumbrances.

11. To discharge all legal incumbrances now existing, or which may hereafter exist, upon any school property.

#### Age limit.

12. To prohibit any child under six years of age from attending the public schools.

#### Other acts.

13. And generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said board.

#### Fund not to be diverted.

14. To use and apply the school fund of the city for the purposes in this section heretofore named, and for no other purpose whatever.

#### Non-residents.

15. To admit non-resident children to any of the departments of the schools of such city upon the payment, at such times as said board may direct, of tuition fee, to be fixed by said board.

**Board of examination.**

Sec. 714. No teacher shall be employed in any of the public schools of such city without having a certificate of the proper grade, issued under the provisions of this chapter. For the purpose of granting certificates required, the board of education, either as a body or by a board of examination appointed by said board of education, and of which the superintendent shall be president, shall hold examinations of teachers. No certificate shall be issued except to a person who shall have passed a satisfactory examination in such branches as the board may require, and shall have given evidence of good moral character, ability, and fitness to teach. Examinations of teachers must be held semi-annually, at such times as the board may determine.

**Revocation and renewal.**

Sec. 715. The board may, in its discretion, renew without re-examination the certificate of any person so employed. It shall have power to revoke the certificate of any teacher upon evidence of immoral or unprofessional conduct or incompetency, and shall always have the power to dismiss any and all teachers, and to alter the amount of salary or compensation paid to either or any of them. The board of education may also, without examination, grant certificates and fix the grade thereof to the holders of life diplomas, state educational diplomas, normal-school diplomas, state university diplomas, and to the holders of such state and county certificates as were in full force and effect on the first day of January, eighteen hundred and eighty.

**Board must visit.**

Sec. 716. It shall be the duty of the board of education to visit and examine each school at least once each and every month; to observe, and cause to be observed, such general rules for the regulation and government and instruction of the schools, not inconsistent with the laws of the state, as may be established by the board.

**School fund, how constituted and applied.**

Sec. 717. The public-school fund of such city shall consist of all moneys received from the state

and county school fund; of all moneys arising from taxes which shall be levied by the city council for school purposes; of all moneys arising from the sale, rent, or exchange of school property; and of such other moneys as may from any source whatever be paid into said school fund; which fund shall be kept separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this chapter. No fees or commission shall be allowed or paid for assessing, collecting, keeping, or disbursing of school moneys; and if at the end of the fiscal year any surplus remains in the school fund, such surplus money shall be carried forward to the school fund of the next fiscal year, and no part of the school fund shall be for any purpose or in any manner whatever diverted or withdrawn from said fund, except as in this chapter provided.

#### Approval of claims.

Sec. 718. All claims payable out of the school fund shall be filed with the secretary of the board, and shall be approved by a majority of all the members of the board, and certificate of such approval shall be indorsed thereon; whereupon the secretary of said board shall draw a warrant upon the city treasurer for the payment thereof, which warrant shall be countersigned by the superintendent. All demands for salaries of teachers and compensation of janitors shall be payable monthly in the same manner without presentation of claims therefor.

#### Payment of demands.

Sec. 719. All demands authorized by this article, and by the board approved as aforesaid, shall be paid by the city treasurer from the school fund upon the presentation of the warrants therefor; provided, that the board of education shall not, without the consent of the city council first had, have power to create any debts or liability in any one year to exceed the actual revenue or available means in the city treasury under the control of the board, and justly applicable for school purposes for such year.

## CHAPTER VI.

## Municipal Corporations of the Fifth Class.

(A charter for cities having a population of more than 3,000 and not exceeding 10,000.)

## Article I.—General Powers.

## Fifth class.

Sec. 750. Every municipal corporation of the fifth class shall be entitled the city of — (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal; alterable at the pleasure of the city authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

## Article II.—General Provisions Relating to Officers.

## Officers.

Sec. 751. The government of said city shall be vested in a board of trustees, to consist of five members; a board of education, to consist of five members; and whenever a free public library and reading-room is established therein, five trustees thereof; a recorder, a treasurer, a city attorney, a clerk, a marshal, an assessor, and such subordinate officers as are hereinafter provided for.

## Election and terms of office.

Sec. 752. The members of the board of trustees, and of the board of education, and the city clerk, city attorney, assessor, marshal, treasurer, and recorder shall be elected by the qualified electors of said city, at a general municipal election, to be held therein on the second Monday in April in each odd-numbered year. The city clerk, city attorney, assessor, marshal, treasurer, and recorder

shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. Members of the board of trustees and of the board of education shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; provided that the first board of trustees and board of education elected under the provisions of this act shall, at their first meeting, so classify themselves, by lot, as that three of their members shall go out of office at the expiration of two years, and two at the expiration of four years. The board of trustees may, in their discretion, appoint a poundmaster, also a superintendent of streets and a city engineer, all of whom shall hold office during the pleasure of the board. [Amendment, approved March 26, 1895; Stats. 1895, chap. clii. In effect immediately.]

#### Official bonds.

Sec. 753. The clerk, treasurer, city attorney, and marshal shall, respectively, before entering upon the duties of their respective offices, each execute a bond to such city in such penal sum as the board of trustees by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter ex officio incumbent. Such bonds shall be approved by the board of trustees. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, which shall be filed with the president of the board of trustees. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office.

#### Vacancies.

Sec. 754. Any vacancy occurring in any of the offices provided for in this act shall be filled by appointment by the board of trustees; but if such office be elective, such appointee shall hold office



only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term. In case a member of the board of trustees is absent from the city for the period of ninety days, unless by permission of the board of trustees, his office shall by the board be declared vacant, and the same filled as in case of other vacancies.

#### Compensation.

Sec. 755. The members of the board of trustees shall receive no compensation whatever, except while acting as a board of equalization. The treasurer, assessor, marshal, clerk, and recorder shall severally receive at stated times, a compensation to be fixed by ordinance, by the board of trustees, which compensation shall not be increased or diminished after their election, or during their several terms of office. Nothing herein contained shall be construed to prevent the board of trustees from fixing such several amounts of compensation, in the first instance, during the term of office of any such officer, or after his election. The compensation of all other officers shall be fixed from time to time by the board of trustees. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

#### Election regulations.

Sec. 756. All elections in such city shall be held in accordance with the general election laws of the state, so far as the same may be made applicable, and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided in such city for at least thirty days next preceding such election. The board of trustees shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and establish election precincts and polling-places, and may change the same; provided, that no part of any ward less than the whole thereof shall be attached to any other ward, or part thereof, in forming election precincts. At any municipal election the last printed great register of the county shall be used, and any elector

whose name is not upon such printed register shall be entitled to vote, upon producing and filing with the board of election a certificate, under the hand and official seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county, provided that he is otherwise entitled to vote.

#### Eligibility to office.

Sec. 757. No person shall be eligible to hold any office in such city, whether filled by election, or appointment, unless he be a resident and elector therein. and shall have resided in such city for one year next preceding the date of such election or appointment.

#### Free library.

Sec. 758. The trustees of any free public library created or existing in such city under the provisions of an act entitled "An act to establish free public libraries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, shall be elected by the qualified electors of said city, at a general municipal election to be held therein on the second Monday in April next succeeding the passage and approval of this act, and shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. In case a vacancy shall occur in the office of trustee of such free public library and reading-room, the board of trustees of said free public library and reading-room shall choose a person to fill such vacancy, who shall serve until the next general municipal election, when, if the term does not then expire, a person shall be elected to serve for the remainder of such unexpired term. [Amendment approved April 1, 1897; Stats. 1897, chap. cclvii. In effect immediately.]

## Article III.—Legislative Department.

## Board of trustees.

Sec. 760. The board of trustees shall meet on the Monday next succeeding the date of said general municipal election, shall take the oath of office, shall choose one of their number president, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the president of the board or by three trustees, by written notice delivered to each member at least three hours before the time specified for the purposed meeting. All meetings of the board of trustees shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

## Meetings.

Sec. 761. At any meeting of the board of trustees, a majority of the trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The president of the board shall preside at all meetings of the board, and in case of his absence, the board may appoint a president pro tem.; and in case of the absence of the clerk, the president or president pro tem. shall appoint one of the members of the board clerk pro tem.

## Rules.

Sec. 762. The board of trustees shall judge of the qualifications of its members and of all election returns, and determine contested elections of all city officers. They may establish rules for the conduct of their proceedings, and punish any member, or other person, for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and, at the desire of any member, shall cause the ayes and noes to be taken on any question, and entered on the journal.

**Limitation on passage of ordinances.**

Sec. 763. No resolution granting any franchise, and no ordinance for any purpose, shall be passed by the board of trustees on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting, or an adjourned regular meeting, and no such resolution and no ordinance granting any franchise shall be passed without being first submitted to the city attorney. No resolution or order for the payment of money shall be passed at any other than a regular meeting, or an adjourned regular meeting, and no resolution or order for the payment of money, no resolution granting a franchise, and no ordinance for any purpose, shall have any validity or effect unless passed by the affirmative vote of at least three trustees. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

Sec. 764. The board of trustees of such city shall have power:

1. To pass ordinances not in conflict with the constitution and laws of this state, or of the United States.

**City real estate.**

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city; provided, that they shall not have any power to sell or convey any portion of any water front; but may rent such water front for a term not exceeding ten years for the purposes of erecting bath-houses thereon.

**Light and water.**

3. To contract for supplying the city with water and electric or other lights for municipal purposes; to purchase, lease, or construct waterworks, and electric plant, and all machinery, conductors and appliances necessary therefor, and to supply said city with, and to sell to the inhabitants thereof, water, light, heat, and power; provided, that in all cases where the estimated total value or price of the waterworks or electric plant sought to be purchased, constructed, or leased, together

with all machinery, appliances, and appurtenances necessary therefor, shall not exceed the sum of ten thousand dollars; no such purchase or lease shall be made unless the question of acquiring such property is submitted to the voters of such city, in the same manner as other propositions, at a general or special municipal election, and a majority of the electors, voting at such election, shall vote in favor of such proposition.

#### Public highways.

4. To establish, build, and repair bridges; to establish, lay out, alter, keep open, open, improve, and repair streets, sidewalks, alleys, squares, and other public highways and places within the city, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or upon any part thereof; to cause to be planted, set out, and cultivated shade trees therein; and generally to manage and control all such highways and places.

#### Sewers.

5. To establish, construct, and maintain drains and sewers.

#### Fire extinguishment.

6. To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires.

#### Poll-tax.

7. To impose on and collect from every male inhabitant between the ages of twenty-one and sixty years an annual street poll tax, not exceeding two dollars, and no other road poll tax shall be collected within the limits of such city; provided, that any member of the volunteer fire company in such city shall be exempt from such tax.

#### Dog tax.

8. To impose and collect an annual license, not exceeding two dollars, on every dog owned or harbored within the limits of the city.

#### Property tax.

9. To levy and collect, annually, a property tax, which shall be apportioned as follows: For the

general fund, not exceeding sixty cents on each one hundred dollars; for street fund, not exceeding thirty cents on each one hundred dollars; for school fund, not exceeding twenty cents on each one hundred dollars; for sewer fund, not exceeding ten cents on each one hundred dollars. The levy for all purposes for any one year for all purposes to which such funds are applicable shall not exceed one dollar on each one hundred dollars of the assessed value of all real and personal property within such city.

#### Liquor tax.

10. To license, for purposes of regulation and revenue, all and every kind of business, including the sale of intoxicating liquors, authorized by law and transacted or carried on in such city, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license upon the same, and to provide for the collection of the same by suit or otherwise.

#### River improvement.

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and remove obstructions therefrom; to improve the water front of the city, and to construct and maintain embankments and other works to protect such city from overflow.

#### Municipal buildings.

12. To erect and maintain buildings for municipal purposes.

#### Tracks and pipes.

13. To permit under such restrictions as they may deem proper, the laying of railroad tracks and running of cars drawn by horses, steam, electricity, or other power thereon, and the laying of gas or water pipes in the public streets, and to construct and maintain, and to permit the construction and maintenance of, telegraph, telephone, and electric light lines therein.

#### Ward division.

14. In its discretion to divide the city, by ordinance, into a convenient number of wards, not exceeding five, to fix the boundaries thereof, and to change the same from time to time; provided.



that no change in the boundaries of any ward shall be made within sixty days next before the date of said general municipal election, nor within twenty months after the same shall have been established or altered. Whenever such city shall be so divided into wards the board of trustees shall designate by ordinance the number of trustees to be elected from each ward, apportioning the same in proportion to the population of such ward; and thereafter the trustees so designated shall be elected by the qualified electors resident in such ward, or by the general vote of the whole city, as may be designated in such ordinance.

#### Policemen.

15. To appoint and remove such policemen and such other subordinate officers as they may deem proper, and to fix their duties and compensation.

#### Violation of ordinances.

16. To impose fines, penalties and forfeitures for any and all violation of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed three hundred dollars, nor the term of such imprisonment exceed three months.

#### Prison labor.

17. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other property, or works within the city.

#### Fire limits.

18. To establish the fire limits with proper regulations.

#### Other acts.

19. To do and perform any and all other acts and things necessary and proper to carry out the provisions of this chapter, and to exact and enforce within the limits of such city all other local, police, sanitary, and other regulations as do not conflict with general laws. [Amendment approved March 27, 1897; Stats. 1897, chap. cxxxvi. In effect immediately.]

#### Enacting clause.

Sec. 765. The enacting clause of all ordinances shall be as follows: "The board of trustees of the Gen. Laws—72.

city of — do ordain as follows." Every ordinance shall be signed by the president of the board of trustees, attested by the clerk, and published at least once in a newspaper published in such city, or printed and posted in at least three public places therein. It shall not be necessary in any action, civil or criminal, to plead or prove the organization or existence of such corporation, nor the passage, existence, or validity of any ordinance thereof; and courts shall take judicial cognizance thereof without proof. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

Board to audit demands.

Sec. 766. All demands against such city, except as otherwise by law provided, shall be presented to and audited by the board of trustees, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the president of the board shall draw a warrant upon the treasurer for the same, which warrant will be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

Indebtedness not to exceed moneys provided.

Sec. 767. The board of trustees shall not create, audit, allow, or permit to accrue any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes, except in the manner provided by law for incurring indebtedness; provided, that any city during the first year of its existence under this act may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it for such year; nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinbefore provided. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

Incurring of excess decided at an election.

Sec. 768. If at any time the board of trustees shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purposes for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred; the purpose or purposes if the question of indebtedness for more than one purpose be proposed of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund as hereinafter provided; provided, that such interest shall not be in excess of seven per cent per annum. Such notice shall be published for at least two weeks in some newspaper published in such city, and no other question or matter shall be submitted to the electors at such election. If, upon the canvass of the votes cast at such election, it appears that not less than two thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the board of trustees to pass an ordinance providing for the mode of creating such indebtedness and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city, sufficient to pay the interest on such indebtedness as it falls due; and also, to constitute a sinking fund for the payment of the principal thereof within a period of not more than twenty years from the time of contracting of the same. It shall be the duty of the board of trustees, in each year thereafter, at the time at which taxes are levied, to levy a tax sufficient for such purposes in addition to the taxes by this chapter authorized to be levied. Such tax when collected shall be kept in the treasury as a separate fund, or funds, in case indebtedness be incurred for different purposes, to be inviolably appropriated to the payment of the principal and interest of such indebtedness. [Amendment ap-

proved March 19, 1889; Stats. 1889, p. 371. In effect immediately.]

At the same session there was another amendment of section 768, as follows:

Incurring of indebtedness to be decided at an election.

Sec. 768. If at any time the board of trustees shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable to the purposes for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes (if the question of indebtedness for more than one purpose be proposed) of the same, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund for each purpose, as hereinafter provided. Such notice shall be published for at least two weeks in some newspaper published and circulated in such city; and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appears that not less than two thirds of all the qualified electors voting at such election, or if more than one proposition is submitted, voting on such proposition, shall have voted in favor of incurring such indebtedness, it shall be the duty of the board of trustees to pass an ordinance providing for the work of creating such indebtedness and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city, sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the principal thereof within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the board of trustees in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purposes in addition to the taxes by this chapter authorized to be levied.

Such tax, when collected, shall be kept in the treasury as a separate fund, or funded if indebtedness be incurred for different purposes, to be inviolably appropriated to the payment of the principal and interest of such indebtedness. [Amendment approved March 19, 1889; Stats. 1889, p. 397. In effect immediately.]

#### Imprisonment.

Sec. 769. The violation of any ordinance of such city shall be deemed a misdemeanor, and may be prosecuted in the name of the people of the state of California. Any person sentenced to imprisonment for the violation of any ordinance may be imprisoned in the city jail, or, if the board of trustees shall by ordinance so prescribe, in the county jail of the county in which such city may be situated; in which case the expense of such imprisonment shall be a charge in favor of such county against such city. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

#### Nuisances.

Sec. 770. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

#### Repairs assessed on fronting property.

Sec. 771. The board of trustees are hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, avenues, highways, and public places of such city. The cost and expense incurred therefor shall be paid as follows, to wit: the expense or cost of improving and repairing streets, sidewalks, alleys, squares, and other public highways and places within the city, removing obstructions therefrom, grading, paving, macadamizing, graveling, and curbing the same, and constructing gutters, culverts, and sidewalks therein, shall be assessed upon the lots and lands fronting thereon, each lot

or portion of a lot being separately assessed for the full debt thereof in proportion to the benefits upon the property to be benefited, sufficient to cover the total expense of the work to the center of the street on which it fronts; provided, that the board of trustees may expend from the general fund for said purposes a sum not exceeding one hundred dollars on any one street in any one year. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street-crossings, or crossways at corners or intersection of streets, and the expense of establishing, building, and repairing bridges in such city, shall be paid by such city. The expense incurred in making and repairing sewers in any streets shall be paid, one-fourth by the owner of the lands on one side of said street, one-fourth by the owner of the land on the other side of said streets, and one-half by the city out of the sewer fund. In all the streets constituting the water-front of such city, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets, from the center line thereof to the said water-front, or to such property of the city bounded thereon, shall be paid for by such city; but no contract for any such work shall be given, except to the lowest responsible bidder, and in the manner hereinafter provided. When any work or improvements mentioned in this section is done or made on one side of the center line of said streets, avenues, or public highways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work, according to the provisions of this chapter. Whenever any expenses or cost of work shall have been assessed on any lands, the amount of said expenses shall become a lien upon said lands, which shall take precedence of all other liens, and which may be foreclosed in accordance with the provisions of the Code of Civil Procedure. Said suit shall be in the name of the city of (naming it), as plaintiff. Upon the filing of a complaint in the superior court to enforce a lien of any kind hereon, the plaintiff shall be entitled, if a recovery is had or the money is paid, to in-



clude as costs the sum of twenty-five dollars as attorney's fees.

#### Right of way.

Sec. 772. Whenever it shall become necessary for the city to take or damage private property for the purpose of establishing, laying out, extending, and widening streets and other public highways and places within the city, or for the purpose of rights of way for drains, sewers, and aqueducts, and for the purpose of widening, straightening, or diverting the channels of streams, and the improvements of water-fronts, and the board of trustees cannot agree with the owner thereof as to the price to be paid, the trustees may direct proceedings to be taken under section twelve hundred and thirty-seven, and following sections, to and including section twelve hundred and sixty-three of the Code of Civil Procedure, to procure the same.

#### City tax levy.

Sec. 773. The board of trustees shall have the power, and it shall be their duty, to provide by ordinance a system for the assessment, levy, and collection of all city taxes not inconsistent with the provisions of this chapter, which system shall conform, as nearly as the circumstances of the case may permit, to the provisions of the laws of this state in reference to assessment, levy, and collection of state and county taxes, except as to the time for such assessment, levy, and collection, and except as to the officers by whom such duties are to be performed. All taxes shall be collected by the marshal or treasurer, as may be determined by the board of trustees by ordinance. All taxes assessed, together with any percentage imposed for delinquency and the costs of collection, shall constitute liens on the property assessed; every tax upon the personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday in March in each year, and may be enforced by a sale of the real property affected, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by action

in any court of competent jurisdiction to foreclose such liens; provided, that any property sold for such taxes shall be subject to redemption within the time and in the manner and upon the terms provided or that may hereafter be provided by law for the redemption of property sold for state taxes. All deeds made upon any sale of property for taxes or special assessments under the provisions of this chapter shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state taxes. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

#### Equalization.

Sec. 774. The board of trustees shall meet at their usual place of holding meetings on the second Monday of August of each year, at ten o'clock in the forenoon of said day, and sit as a board of equalization, and shall continue in session from day to day until all the returns of the assessor have been rectified. They shall have power to hear complaints, and to correct, modify, or strike out any assessment made by the assessor, and may, of their own motion, raise any assessment, upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment roll for said tax for said year. It shall be certified by the city clerk, who shall act as clerk of the board of equalization, as being the assessment roll for said tax, and shall be the assessment roll upon which such tax is to be levied in said year.

#### Construction of act.

Sec. 775. Nothing in this chapter contained shall be construed to prevent any city having a bonded indebtedness, contracted under laws heretofore passed, from levying and collecting such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, in addition to the taxes herein authorized to be levied and collected; nor to prevent any city from levying and collecting the tax authorized by the act entitled "An act to establish free public libra-

ries and reading-rooms," approved April twenty-sixth, eighteen hundred and eighty, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, street poll-tax, and from fines, penalties, and forfeitures, shall be paid into the general fund.

#### Water-front fund.

Sec. 776. The board of trustees may also levy, and cause to be collected in each year, in addition to the taxes herein authorized to be levied and collected, a tax, not exceeding ten cents on each one hundred dollars of the assessed value of all real and personal property within such city subject to taxation, the proceeds of which tax shall be known as the "river and water-front improvement fund," and shall be applied to the improvement of streams, bays, and water-fronts, and the erection of embankments and other works to protect the city from overflow, and for no other purposes whatever.

#### Public work to be contracted for.

Sec. 777. In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in or about streams, bays, or water-fronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same exceeds the sum of one hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation printed and published in such city, for at least two weeks, or if there be no newspaper printed or published therein, by printing and posting the same in at least four public places therein for the same period. Such notice shall distinctly and specifically state the work contemplated to be done; provided, that the board of trustees may reject all bids presented, and re-advertise, in their discretion. The board of trustees shall annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice, as

provided in this section, and the contract therefor shall be awarded separately from all other printing. [Amendment approved March 10, 1891, Stats. 1891, p. 54.]

#### Powers of president.

Sec. 778. The president of the board of trustees shall preside over all meetings of the board at which he is present. In his absence a president pro tem. may be chosen. The president, and in his absence the president pro tem., shall sign all warrants drawn on the city treasurer, and, unless otherwise provided by said board, shall sign all written contracts entered into by said city, as such president or president pro tem. The authority and power of the president pro tem. shall continue only during the day on which he is chosen. The president and president pro tem. shall have power to administer oaths and affirmations, and take affidavits and certify the same under their hands. The president or president pro tem. shall sign all conveyances made by said city, and all instruments which shall require the seal of the city. The president is authorized to acknowledge the execution of all instruments executed by said city that require to be acknowledged. He shall have power to administer oaths and affirmations concerning any demand upon the treasury, and in all matters relating to the duties of the board of trustees, and to witnesses examined in any investigation had by said board, or by any committee thereof duly authorized to make such investigation. Said president may issue subpoenas under his hand and the seal of such city, attested by the city clerk, to compel the attendance of witnesses before such board of trustees or committee thereof. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

## Article IV.—Executive Department.

**Treasurer.**

Sec. 786. It shall be the duty of the treasurer to receive and safely keep all moneys which shall come into his hands as city treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the city clerk. He shall pay out said money on warrants signed by the proper officers, and not otherwise, except interest coupons on bonds. He shall make quarterly settlements with the city clerk. He shall collect all taxes levied by the board of trustees, if so required by ordinance. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

**Assessor.**

Sec. 787. It shall be the duty of the assessor, between the first day of May and the first day of August in each year, to make out a true list of all the taxable property within the city. The mode of making out of said list, and proceedings relating thereto, shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this act, or by ordinance. Said list shall describe the property assessed and the value thereof, and shall contain all other matters required to be stated in such lists by county assessors. Said assessor shall verify said list by his oath, and shall deposit the same with the city clerk, on or before the first Monday of August in each year. The assessor shall, during said time, also make a list of all male persons residing within the limits of such city over the age of twenty-one years, and shall verify said list by his oath, and shall, on or before the first Monday of August in each year, deposit the same with the city clerk. Said assessor and his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duties.

**City clerk, duties of.**

Sec. 788. It shall be the duty of the city clerk to keep a full and true record of all the proceed-

ings of the board of trustees and of the board of equalization. The proceedings of the board of trustees shall be kept in a book, marked "Records of the Board of Trustees." The proceedings of the board of equalization shall be kept in a separate book, marked "Records of the Board of Equalization." He shall keep a book, which shall be marked "City Accounts," in which shall be entered as a credit all moneys received by the city for licenses, the amount of any tax when levied, and all other moneys received; and in which shall be entered upon the debtor side all commissions deducted, and all warrants drawn on the treasury. He shall also keep a book, marked "Marshal's Account," in which he shall charge the city marshal with all the tax lists, if any, delivered to him, and all licenses delivered to him. He shall credit the marshal with the delinquent lists returned by him. He shall also keep a book, marked "Treasurer's Account," in which he shall keep a full account of the transactions of the city with the treasurer. He shall also keep a book, marked "City Licenses," in which he shall enter all licenses delivered by him to the marshal, and the amount thereof. He shall also keep a book, marked "City Ordinances," into which he shall copy all city ordinances, with his certificate annexed to said copy, stating the foregoing ordinance is a true and correct copy of an ordinance of such city, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Said record copy, with said certificate, or the original ordinance, shall be prima facie evidence of the contents of the ordinance and of the due passage and publication of the same, and shall be admissible as such evidence in any court or proceeding. Said records shall not be filed in any case, but shall be returned to the custody of the city clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. Each of the foregoing books, except the records of the board of trustees and the board of equalization, shall have a general index, sufficiently comprehensive to enable a person readily to ascertain matters con-



tained therein. The city clerk shall also keep a book, marked "Demands and Warrants," in which he shall note every demand against the city, and file the same. He shall state therein, under the note of the demands, the final disposition made of the same; and if the same is allowed and a warrant is drawn, he shall also state the number of the warrant, with sufficient dates. This book shall contain an index, in which reference shall be made to each demand. Upon the completion of the assessment roll for any of the taxes of the city, and levying of the tax thereon, the city clerk shall apportion the taxes upon such assessment roll, and shall deliver it to the officer charged with the duty of collecting taxes. It shall not be necessary to make a duplicate assessment roll. He may appoint a deputy, for whose acts he and his bondsmen shall be responsible; and he and his deputy shall have power to administer oaths and affirmations, to take affidavits and depositions to be used in any court or proceeding in the state, and to certify the same. He and his deputy shall take all necessary affidavits to demands against the city, and certify the same without charge. He shall be the custodian of the seal of such city. He shall make a quarterly statement, in writing, showing the receipts and expenditures of the city for the preceding quarter, and the amount remaining in the treasury. He shall, at the end of every fiscal year, make a full and detailed statement of the receipts and expenditures of the preceding year, and a full statement of the financial condition of the affairs of the city, which shall be published. He shall perform such other services as this act and the ordinances of the board of trustees shall require. [Amendment approved March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

City attorney.

Sec. 789. It shall be the duty of the city attorney to advise the city authorities and officers in all legal matters pertaining to the business of said city, and to render such other services in the line of his profession as may be required of him by the board of trustees. [Amendment approved

March 19, 1889; Stats. 1889, p. 389. In effect immediately.]

Police department under control of city marshal.

Sec. 790. The department of police of said city shall be under the direction and control of the city marshal, and for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions, he shall have the powers that are now or may hereafter be conferred upon sheriffs by the laws of the state, and shall, in all respects, be entitled to the same protection; and his lawful orders shall be promptly executed by deputies, police-officers, and watchmen in said city, and every citizen shall also lend him aid, when required, for the arrest of offenders and maintenance of public order. He shall and is hereby authorized to execute and return all process issued and directed to him by any legal authority. It shall be his duty to prosecute before the recorder all breaches or violations of or noncompliance with any city ordinance which shall come to his knowledge. He shall collect all taxes levied by the board of trustees, except as is herein provided. He shall, at the expiration of any month, pay to the city treasurer all taxes and other funds of said city collected by him during said month. He shall, upon payment of the money, file with the treasurer an affidavit, stating that the money so paid is all the taxes or funds that he has collected or received during the preceding month. He shall, upon the receipt of any tax list, give his receipt for the same to the city clerk, and shall, upon depositing with the city clerk the delinquent tax list, take his receipt therefor. He shall receive from the clerk all city licenses and collect the same. He shall have charge of the city prison and prisoners, and of any chain-gang that may be established by the board of trustees. He shall, for service of any process, receive the same fees as constables. He may appoint, subject to the approval of the board of trustees, one or more deputies, for whose acts he and his bondsmen shall be responsible, whose only compensation shall be

fees for the service of process which shall be the same as those allowed to the city marshal. He may also, with the concurrence of the president of the board of trustees, when the same may be by them deemed necessary for the preservation of public order, appoint additional policemen, who shall discharge the duties assigned them for one day only. He shall perform such other services as this act and the ordinances of the board of trustees shall require, and shall receive such compensation from the city as shall be fixed by ordinance, in addition to such mileage and fees as he shall receive in the service of process of the courts of the state, other than the recorder's court of such city, which mileage and fees shall be the same as is allowed by law to constables in the county in which such city is situated. [Amendment approved March 23, 1893; Stats. 1893, p. 299.]

Board to fix compensation.

Sec. 791. The board of trustees shall, by ordinances not inconsistent with the provisions of this chapter, prescribe the additional duties of all officers, and fix their compensation.

#### Article V.—School Department.

School district.

Sec. 795. From and after the organization of each of such cities, the same shall constitute a separate school district, which shall be governed by the board of education of such city; provided the board of supervisors may include more territory in such school district than that included in such city, and in that case such outside territory shall be deemed a part of such city for the purpose of holding the general municipal election and shall be an election precinct by itself and its qualified electors shall vote only for the board of education, and said outside territory shall be deemed to be a part of said city for all matters connected with the school department, and the annual levying and collecting of the property tax for the school fund.

[Amendment approved March 10, 1891; Stats. 1891, p. 28.]

Vacancy in board.

Sec. 796. In case a vacancy shall occur in the office of school director, the board of education shall choose a person to fill such vacancy, who shall serve until the next election, when, if the term does not then expire, a person shall be elected to serve for the remainder of such unexpired term.

Meetings.

Sec. 797. The board of education shall meet on the second Tuesday after such general municipal election, and choose one of its members as president, and shall appoint a secretary, who shall hold at the pleasure of said board. The regular meetings of said board shall thereafter be held as often as once in each month, in the place provided for the board of trustees, and the time for holding such meetings shall be fixed by the board of education. Special meetings of said board may be held when called by written notice, signed by its president, or three of its members, and delivered personally to each of its members who shall not have signed the same. Three members shall constitute a quorum, and no business shall be transacted by said board of education without the concurrence of three of its members; but a majority of the members present at any meeting may adjourn from time to time. All meetings of said board of education shall be public, and full records of its proceedings shall be kept by the secretary of said board of education. The members of the board of education shall receive no compensation for their services as school directors. [Amendment approved March 7, 1891; Stats. 1891, p. 114.]

Powers of board.

Sec. 798. The board of education shall have power:

Establish schools.

1. To establish and maintain public schools, and to subdivide the school districts, and to fix and alter the boundaries of such subdivisions.

### Employees.

2. To employ and dismiss teachers, janitors, truant officers, and school-census marshals, and to fix, alter, allow, and order paid their salaries or compensations, and to employ and pay such mechanics and laborers as may be necessary to carry into effect the powers hereby conferred.

### Regulate schools.

3. To make, establish, and enforce all necessary or proper rules and regulations, not in conflict with the laws of this state, for the government and management of public schools within such city, the teachers thereof, and the pupils therein, and for carrying into effect the laws relating to education.

### Supplies.

4. To provide for the school department of such city, fuel and lights, water, printing, and stationery, and to incur such other incidental expenses as may be deemed necessary by said board.

### Building and repairs.

5. To build, alter, repair, rent, and provide school-houses, and to furnish the same with proper school furniture, apparatus, and appliances, and to insure any and all school property.

### Real estate.

6. To purchase, receive, lease, and hold in fee, in trust for such city, any and all real estate and personal property that may have been acquired, or may hereafter be acquired, for the use and benefit of the schools of such city; provided, that no real estate shall be bought, sold, or exchanged, nor any expenditure incurred for the construction of new school-houses, without the approval of the board of trustees; and provided further, that the proceeds of any such sale or exchange of real estate shall be exclusively applied to the purchase of other lots for the erecting of school-houses.

### Improvements.

7. To grade, fence, and improve all school lots. To estimate moneys needed.

8. To determine annually the amount of money required for the support of the public schools, and for carrying into effect all the provisions of law in

reference thereto; and in pursuance of this provision, the board of education shall, at least ten days before the meeting of the board of trustees at which the annual city taxes are levied, submit in writing to the board of trustees a careful estimate of the whole amount of money to be received from the state and county, and of the amount to be required from such city for the above-mentioned purposes; and the amount so found to be required from the city shall, by the board of trustees, be added to the above amounts to be assessed and collected for city purposes, and when collected, the proceeds thereof shall be immediately paid into the school fund of such city, to be drawn out only upon the order of the board of education; provided, that such annual tax shall not exceed twenty-five cents on each one hundred dollars of the assessed valuation of the real and personal property within such city.

Disbursement of fund.

9. To establish regulations for the just and equal disbursement of all moneys belonging to the school fund.

Incumbrances.

10. To discharge all legal incumbrances existing at the time of the incorporation of such city, or thereafter, on any school property within such city.

Non-residents.

11. To admit non-resident children, and persons over twenty-one years of age, to any of the departments of the schools of such city, upon the payment monthly, in advance, of such tuition fee as said board may establish.

Age limit.

12. To prohibit any children under six years of age from attending the public schools.

Grades.

13. To establish and regulate the grades of schools in such city, and the course of study, and the mode of instruction to be pursued therein, and determine what text-books shall be used.

Other acts.

14. To do and perform, in addition to the foregoing powers, such other acts as may be neces-



sary or proper to carry into effect the powers hereby conferred.

Board may sue and be sued.

Sec. 799. The board of education may sue and be sued by their name of office. In any action or judicial proceeding against said board, service of process upon the president, or upon a majority of the members of the board shall be sufficient to give the court jurisdiction to hear and determine the same.

Treasurer custodian of moneys.

Sec. 800. All moneys received by the treasurer of the county wherein such city may be situated, on account of the school fund of such city, or the school district consisting of the same, and all sums received into the county treasury, which may be apportioned to said city or district, shall be paid to the treasurer of such city, by the treasurer of such county, as soon as received, or as soon as the apportionment shall be made, when apportionment is necessary, upon the order of the board of education.

Demands.

Sec. 801. The president of the board of education shall have power to administer oaths and affirmations concerning any demand upon the treasury, payable out of the school fund, and in all other matters relating to the duties of the board of education, and to witnesses examined in any investigation had by such board of education, or by a committee thereof, duly appointed by it for that purpose.

President may compel witnesses.

Sec. 802. Said president may issue subpoenas under his hand and the seal of such city, attested by the city clerk, to compel the attendance of witnesses before such board of education, or committee thereof, who shall be entitled to the same fees as witnesses in civil cases, and who may be punished for contempt for non-attendance, or refusal to be sworn, or to answer, by the superior court of the county in which such city may be situated.

Warrants.

Sec. 803. Every claim payable out of the school fund shall be filed with the secretary of the board

of education, and after it shall have been approved by the board a certificate of such approval shall be indorsed thereon, signed by the president and secretary, and a warrant upon the school fund shall be issued thereon for the payment of such claim; which warrant shall be signed by the president of such board, and countersigned by the secretary and shall specify for what purpose the same is drawn.

#### Duties of secretary.

Sec. 804. The secretary shall report to the board annually, and at such other times as they may require, all matters pertaining to the expense, income, condition, and progress of the public schools of said city during the preceding year, with such recommendations as he may deem proper. He shall observe, and cause to be observed, such general rules and regulations for the government of and instruction in the schools, not inconsistent with the laws of the state, as may be established by the board of education. He shall attend the sessions of the board, and inform them at each session of the condition of the public schools, school-houses, school funds, and other matters connected therewith, and recommend such measures as he may deem necessary for the advancement of education in the city, and shall perform such other duties as may be required of him by the board. He shall receive as compensation for his services, payable out of the school fund, such sum as the board of education from time to time may allow.

#### Fund shall not be diverted.

Sec. 805. The entire revenue derived by such city from the state school fund and the state school tax shall be applied by said board of education exclusively to the support of primary and grammar schools.

## Article VI.—Judicial Department.

## Recorder's court.

Sec. 806. A recorder's court is hereby established in such city, to be held by the recorder of such city. Said recorder's court shall have jurisdiction, concurrently with the justice's courts, of all actions and proceedings, civil and criminal, arising within the corporate limits of such city, and which might be tried in such justice's court; and shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city, of all actions founded upon any obligations or liability created by any ordinance, and of all prosecutions for any violation of any ordinance. The rules of practice and mode of proceeding in said recorder's court shall be the same as are or may be prescribed by law for justices' courts in like cases; and appeals may be taken to the superior court of the county in which such city may be situated, from all judgments of said recorder's court, in like manner and with like effect as in cases of appeals from justices' courts.

## Powers of recorder as judge.

Sec. 807. The recorder shall be judge of the recorder's court, and shall have the powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations, and take and certify acknowledgments. He shall be entitled to charge and receive for his services such fees as are or may be allowed by law to justices of the peace for like services, except that for his services in criminal prosecution for violation of ordinances he shall be entitled to receive only such monthly salary as the board of trustees shall by ordinance prescribe; which compensation, when once fixed, shall not be altered within two years.

## Recorder, when disqualified as judge.

Sec. 808. In all cases in which the recorder is a party, or in which he is interested, or when he is related to either party by consanguinity or

affinity within the third degree, or is otherwise disqualified, or in case of sickness or inability to act, the recorder may call in a justice of the peace residing in the city, to act in his place and stead; or if there be no justice of the peace residing in the city, or if all those so residing are likewise disqualified, then he may call in any justice of the peace residing in the county in which such city is situated.

#### Article VII.—Miscellaneous Provisions.

##### Collection of moneys.

Sec. 810. Every officer collecting or receiving any moneys belonging to or for the use of such city shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong.

No officer to be interested in contract.

Sec. 811. No officer of such city shall be interested, directly or indirectly, in any contract with such city, or with any of the officers thereof, in their official capacity, or in doing any work or furnishing any supplies for the use of such city or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such.

##### Nuisances.

Sec. 812. Every act or thing done or being within the limits of such city, which is or may be declared by law or by any ordinance of such city to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be

given by law for the prevention and abatement of nuisances shall apply thereto.

Fire departments.

Sec. 813. Fire departments in cities of the fifth class shall consist of volunteer companies of firemen, organized into engine, hose, or hook and ladder companies. Such fire department, and such fire companies shall elect their own officers; provided, that in the election of any person as chief of any such fire department, his election shall be forthwith certified by the secretary of said department to the board of trustees of such city, and by them, at their next regular meeting, confirmed, and such chief shall give a bond to the chairman of the board of trustees of such city, in the sum of one thousand dollars; and the chief of every fire department must inquire into the cause of every fire occurring in the city, and keep a record thereof. He shall have exclusive control of the working of the fire department in time of conflagration or fire. He must aid in the enforcement of all fire ordinances duly enacted, examine buildings in process of erection, report violation of ordinances relating to the prevention and extinguishment of fires when directed by the proper authorities, and institute proceedings therefor, and shall have general control, management, and direction of the fire companies, hose, hook and ladder companies, and engine, and fire departments of such city, and shall perform such other duties as may be by the ordinances of said city, or by law, imposed upon him. His compensation, which shall not be less than ten dollars per month, must be fixed and paid by the board of city trustees. [New section approved March 27. 1897; Stats. 1897, chap. cxxii.]

## CHAPTER VII.

## MUNICIPAL CORPORATIONS OF THE SIXTH CLASS.

(A charter for cities and towns having a population of not exceeding 3,000.)

For an act to enable municipal corporations of the sixth class to elect officers, see statute following this.

## Article I.—General Powers.

## Sixth class.

Sec. 850. Every municipal corporation of the sixth class shall be entitled the city (or town) of ——— (naming it), and by such name shall have perpetual succession, may sue and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the city or town authorities, and may purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of the same for the common benefit.

## Article II.—General Provisions Relating to Officers.

## Officers.

Sec. 851. The government of such city or town shall be vested in a board of trustees, to consist of five members; a clerk, who shall be ex-officio assessor; a treasurer; a marshal, who shall be ex-officio tax and license collector; a recorder, to be appointed by the board of trustees, and such subordinate officers as are hereinafter provided for. [Amendment approved March 27, 1895; Stats. 1895, p. 266.]

## Election and tenure of office.

Sec. 852. The members of the board of trustees and the clerk, treasurer, and marshal shall be



elected by the qualified electors of said city or town at a general municipal election to be held therein on the second Monday in April in each even-numbered year. The clerk, treasurer, and marshal shall hold office for the period of two years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified. Members of the board of trustees shall hold office for the period of four years from and after the Monday next succeeding the day of such election, and until their successors are elected and qualified; provided, that the first board of trustees elected under the provisions of this act shall, at their first meeting, so classify themselves by lot as that three of their number shall go out of office at the expiration of two years and two at the expiration of four years. The board of trustees may, in their discretion, appoint an attorney, a pound-master, a superintendent of streets, a civil engineer, and such police and other subordinate officers as in their judgment may be deemed necessary, and fix their compensation, which said officers shall hold office during the pleasure of said board.

#### Official bonds.

Sec. 853. The clerk, treasurer, and marshal shall, respectively, before entering upon the duties of their respective offices, each execute a bond to such city or town in such penal sum as the board of trustees by ordinance may determine, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is made by this chapter ex-officio incumbent; such bonds shall be approved by the board of trustees. All bonds, when approved, shall be filed with the clerk, except the bond of the clerk, which shall be filed with the president of the board of trustees. All the provisions of any law of this state relating to the official bonds of officers shall apply to such bonds, except as herein otherwise provided. Every officer of such city, before entering upon the duties of his office, shall take and file with the clerk the constitutional oath of office.

Vacancies, how filled.

Sec. 854. Any vacancy occurring in any of the offices provided for in this act shall be filled by appointment by the board of trustees; but if such office be elective, such appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of such unexpired term. In case a member of the board of trustees is absent from the city for the period of ninety days, unless by permission of the board of trustees, his office shall by the board be declared vacant, and the same filled as in case of other vacancies.

Compensation.

Sec. 855. The members of the board of trustees shall receive no compensation whatever. The clerk, treasurer, marshal, and recorder shall severally receive, at stated times, a compensation, to be fixed by ordinance by the board of trustees, which compensation shall not be increased or diminished after their election, or during their several terms of office. Nothing herein contained shall be construed to prevent the board of trustees from fixing such several amounts of compensation in the first instance, during the term of office of any such officer, or after his election. The compensation of all other officers shall be fixed from time to time by the boards of trustees.

Election provisions.

Sec. 856. All elections in such city or town shall be held in accordance with the general election laws of the state, so far as the same may be made applicable; and no person shall be entitled to vote at such election unless he shall be a qualified elector of the county, enrolled upon the great register thereof, and shall have resided in such city for at least thirty days next preceding such election. The board of trustees shall give such notice of each election as may be prescribed by ordinance, shall appoint boards of election, and fix their compensation, and establish election precincts and polling-places, and may change the same. At any municipal election the last printed great register of the county shall be used, and any elector whose name is not upon such printed register shall be entitled to vote upon producing

and filing with the board of election a certificate, under the hand and official seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county; provided, that he is otherwise entitled to vote.

Eligibility to office.

Sec. 857. No person shall be eligible to or hold any office in said city, whether filled by election or appointment, unless he be a resident and elector therein, and shall have resided in such city for one year next preceding the date of such election or appointment.

### Article III.—Legislative Department.

Board of trustees.

Sec. 858. The board of trustees shall meet on the Monday next succeeding the date of said general municipal election, shall take the oath of office, shall choose one of their number president, and shall hold regular meetings at least once in each month, at such times as they shall fix by ordinance. Special meetings may be called at any time by the president of the board, or by three trustees, by written notice delivered to each member, at least three hours before the time specified for the proposed meeting. All meetings of the board of trustees shall be held within the corporate limits of the city, at such place as may be designated by ordinance, and shall be public.

Meetings.

Sec. 859. At any meeting of the board of trustees a majority of the trustees shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The president of the board shall preside at all meetings of the board, and in case of his absence the board may appoint a president pro tem.; and in case of the absence of the clerk, the president or president pro tem. shall appoint one of the members of the board clerk pro tem.

### Rules.

Sec. 860. The board of trustees shall judge of the qualifications of its members and of all election returns, and determine contested elections of all city officers. They may establish rules for the conduct of their proceedings, and punish any member or other person for disorderly behavior at any meeting. They shall cause the clerk to keep a correct journal of all their proceedings, and at the desire of any member shall cause the ayes and noes to be taken on any question, and entered on the journal.

Franchises and resolutions to pay money.

Sec. 861. No ordinance, and no resolution granting any franchise for any purpose, shall be passed by the board of trustees on the day of its introduction, nor within five days thereafter nor at any other than a regular meeting. No resolution or order for the payment of money shall be passed at any other time than at a regular meeting. And no such ordinance, resolution, or order shall have any validity or effect unless passed by the votes of at least three trustees.

### Powers.

Sec. 862. The board of trustees of said city shall have power:

#### Ordinances.

1. To pass ordinances not in conflict with the constitution and laws of this state or of the United States.

#### Real estate.

2. To purchase, lease, or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of, and convey the same for the benefit of the city or town; provided, they shall not have power to sell or convey any portion of any waterfront.

#### Water.

3. To contract for supplying the city or town with water for municipal purposes, or to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of such city or its inhabitants, or for irrigating purposes therein.

### Highways.

4. To establish, build, and repair bridges; to establish, lay out, alter, keep open, improve, and repair streets, sidewalks, alleys, squares, and other public highways and places within the city or town, and to drain, sprinkle, and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, macadamize, gravel, and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks, and crosswalks therein, or on any part thereof; to cause to be planted, set out, and cultivated, shade trees therein; and generally to manage and control all such highways and places.

### Sewers.

5. To construct, establish, and maintain drains and sewers.

### Fire extinguishment.

6. To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires.

### Poll-tax.

7. To impose on and collect from every male inhabitant, between the ages of twenty-one and sixty years, an annual street-poll tax, not exceeding two dollars; and no other road poll tax shall be collected within the limits of the city.

### Dog tax.

8. To impose and collect an annual license not exceeding two dollars on every male dog and four dollars on every female dog owned or harbored within the limits of the city.

### Property tax.

9. To levy and collect annually a property tax which shall not exceed seventy-five cents on each one hundred dollars.

### Licenses.

10. To license, for the purpose of revenue and regulation, all and every kind of business authorized by law and transacted and carried on in such city or town, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise; provided, that any license taxes collected under a

city ordinance shall be collected by the city or town marshal, and paid into the city or town treasury for the use of the city or town in which it is collected.

Water-front improvement.

11. To improve the rivers and streams flowing through such city, or adjoining the same; to widen, straighten, and deepen the channels thereof, and remove obstructions therefrom; to improve the waterfront of the city; to construct and maintain embankments and other works to protect such city from overflow, and to acquire, own, construct, maintain, and operate on any lands bordering on any navigable bay, lake, inlet, river, creek, slough, or arm of the sea within the corporate limits of such city, or contiguous thereto, wharves, chutes, piers, breakwaters, bath-houses, and life-saving stations.

Public buildings.

12. To erect and maintain buildings for municipal purposes.

Tracks and pipes.

13. To acquire, own, construct, maintain, and operate street railways, telephone and telegraph lines, gas and other works for light and heat, public libraries, museums, gymnasiums, parks, and baths; and to permit, under such restrictions as they may deem proper, the laying of railroad tracks, and the running of cars drawn by horses, steam, or other power thereon, and the laying of gas and water pipes in the public streets, and to permit the construction and maintenance of telegraph and telephone lines therein.

Violation of ordinances.

14. To impose fines, penalties, and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed three hundred dollars, nor the term of imprisonment exceed three months.

Prison labor.

15. To cause all persons imprisoned for violation of any ordinance to labor on the streets, or other public property or works within the city.



**Other acts.**

16. To do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter. [Amendment approved March 18, 1897; Stats. 1897, chap. cxv. In effect immediately.]

**Enacting clause.**

Sec. 863. The enacting clause of all ordinances shall be as follows: "The board of trustees of the city (or town) of ——— do ordain as follows." Every ordinance shall be signed by the president of the board of trustees, attested by the clerk, and published at least once in a newspaper published in such city or town, or printed and posted in at least three public places therein.

**Demands.**

Sec. 864. All demands against such city or town shall be presented to and audited by the board of trustees, in accordance with such regulations as they may by ordinance prescribe; and upon the allowance of any such demand, the president of the board shall draw a warrant upon the treasurer for the same, which warrant shall be countersigned by the clerk, and shall specify for what purpose the same is drawn, and out of what fund it is to be paid.

**Indebtedness not to exceed available funds.**

Sec. 865. The board of trustees shall not create, audit, allow, or permit to accrue, any debt or liability in excess of the available money in the treasury that may be legally apportioned and appropriated for such purposes; provided, that any city or town during the first year of its existence under this act may incur such indebtedness or liability as may be necessary, not exceeding in all the income and revenue provided for it in such year; nor shall any warrant be drawn, or evidence of indebtedness be issued, unless there be at the time sufficient money in the treasury legally applicable to the payment of the same, except as hereinafter provided.

**Incurring excess decided by vote.**

Sec. 866. If at any time the board of trustees shall deem it necessary to incur any indebtedness in excess of the money in the treasury applicable

to the purpose for which such indebtedness is to be incurred, they shall give notice of a special election by the qualified electors of the city or town, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the purpose or purposes of the same, and the amount of money necessary to be raised annually, by taxation, for an interest and sinking fund, as hereinafter provided. Such notice shall be published for at least two weeks in some newspaper published in such city or town; and no other question or matter shall be submitted to the electors at such election. If upon a canvass of the votes cast at such election it appears that not less than two-thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the board of trustees to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation within such city or town, sufficient to pay the interest on such indebtedness as it falls due; and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the board of trustees, in each year thereafter, at the time at which other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes by this chapter authorized to be levied. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

#### Incarceration.

Sec. 867. The violation of any ordinance of such city or town shall be deemed a misdemeanor, and may be prosecuted by the authorities of such city or town in the name of the people of the state of California, or may be redressed by civil action, at the option of said authorities. Any person sentenced to imprisonment for the violation of an

ordinance may be imprisoned in the jail for such city or town; or if the board of trustees by ordinance shall so prescribe, in the county jail of the county in which such city or town may be situated, in which case the expense of such imprisonment shall be a charge in favor of such county and against such city or town.

#### Nuisances.

Sec. 868. Every act or thing done or being within the limits of such city or town, which is or may be declared by law or by any ordinance of such city or town to be a nuisance, shall be and is hereby declared to be a nuisance, and shall be considered and treated as such in all actions and proceedings whatever; and all remedies which are or may be given by law for the prevention and abatement of nuisances shall apply thereto.

Cost of street-work assessed on fronting property.

Sec. 869. The board of trustees are hereby authorized and empowered to order any work authorized by this chapter to be done upon the streets, avenues, highways, and public places of such city or town. The cost and expense incurred therefor shall be paid as follows, to wit: The expense or cost of improving and repairing streets, sidewalks, alleys, squares, and other public highways and places within the city or town, removing obstructions therefrom, grading, paving, macadamizing, graveling, and curbing the same, and constructing gutters, culverts, and sidewalks therein, shall be assessed upon the lots and lands fronting thereon, each lot or portion of a lot being separately assessed for the full depth thereof in proportion to the benefits upon the property to be benefited, sufficient to cover the total expense of the work to the center of the street on which it fronts; provided, that the board of trustees may expend from the general fund for said purposes a sum which in their judgment may be necessary. The expense of all improvements in the space formed by the junction of two or more streets, or where one main street terminates in or crosses another main street, and also all necessary street crossings, or crossways at corners or intersection of streets, and the expense of establishing, build-

ing, and repairing bridges in such city or town, shall be paid by such city or town. The expense incurred in making and repairing sewers in any street shall be paid, one fourth by the owner of the lands on one side of said street, one fourth by the owner of the land on the other side of said street, and one-half by the city or town out of the sewer fund. In all the streets constituting the water-front of such city or town, or bounded on the one side by the property thereof, the expense of work done on that portion of said streets, from the center line thereof to the said water-front, or to such property of the city or town bounded thereon, shall be paid for by such city or town, but no contract for any such work shall be given except to the lowest responsible bidder, and in the manner hereinafter provided. When any work or improvements mentioned in this section is done or made on one side of the center line of said streets, avenues, or public highways, the lots or portions of lots fronting on that side only shall be assessed to cover the expenses of said work according to the provisions of this chapter. Whenever any expenses or costs of work shall have been assessed on any lands, the amount of said expenses shall become a lien upon said lands, which shall take precedence of all other liens, and which may be foreclosed in accordance with the provisions of the Code of Civil Procedure. Such suit shall be in the name of such city or town as plaintiff. Upon the filing of a complaint in the superior court to enforce a lien of any kind hereon, the plaintiff shall be entitled, if a recovery is had or the money is paid, to include as costs the sum of twenty-five dollars as attorney's fees.

#### Right of way.

Sec. 870. Whenever it shall become necessary for the city or town to take or damage private property for the purpose of establishing, laying out, extending, and widening streets and other public highways and places within the city or town, or for the purpose of rights of way for drains, sewers, and aqueducts, and for the purpose of widening, straightening, or diverting the channels of streams and the improvement of water-fronts, and the board of trustees cannot

agree with the owner thereof as to the price to be paid, the trustees may direct proceedings to be taken under section twelve hundred and thirty-seven and following sections, to and including section twelve hundred and sixty-three of the Code of Civil Procedure, to procure the same.

Levy of taxes.

Sec. 871. The board of trustees shall have power, and it shall be their duty, to provide by ordinance a system for the assessment, levy, and collection of all city or town taxes not inconsistent with the provisions of this chapter, which system shall conform as nearly as the circumstances of the case may permit to the provisions of the laws of this state in reference to the assessment, levy, and collection of state and county taxes, except as to the times for such assessment, levy, and collection, and except as to the officers by whom such duties are to be performed. All taxes assessed, together with any percentage imposed for delinquency, and the costs of collection, shall constitute liens on the property assessed, from and after the first Monday in March in each year; which liens may be enforced by a summary sale of such property; and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or by actions in any court of competent jurisdiction to foreclose such liens; provided, that any property sold for such taxes shall be subject to redemption within the time and in the manner provided, or that may hereafter be provided by law for the redemption of property sold for state or county taxes. All deeds made upon any sale of property for taxes or special assessments, under the provisions of this chapter, shall have the same force and effect in evidence as is or may hereafter be provided by law for deeds for property sold for non-payment of state or county taxes.

Equalization.

Sec. 872. The board of trustees shall meet at their usual place of holding meetings on the second Monday of August of each year, at ten o'clock in the forenoon of said day, and sit as a board of

equalization, and shall continue in session from day to day until all the returns of the assessor have been rectified. They shall have power to hear complaints, and to correct, modify, or strike out any assessment made by the assessor, and may, of their own motion, raise any assessment, upon notice to the party whose assessment is to be raised. The corrected list for each tax shall be the assessment roll for said tax for said year. It shall be certified by the clerk, who shall act as clerk of the board of equalization, as being the assessment roll for said tax, and shall be the assessment roll upon which such tax is to be levied in said year.

Construction of act.

Sec. 873. Nothing in this chapter contained shall be construed to prevent any city or town having a bonded indebtedness, contracted under laws heretofore passed, from levying and collecting such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, in addition to the taxes herein authorized to be levied and collected. All moneys received from licenses, street poll-tax, and from fines, penalties, and forfeitures, shall be paid into the general fund.

Public work to be done by contract.

Sec. 874. In the erection, improvement, and repair of all public buildings and works, in all street and sewer work, and in all work in and about streams, bays, or water-fronts, or in or about embankments, or other works for protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same exceeds the sum of one hundred dollars, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation, printed and published in such city or town, for at least two weeks, or if there be no newspaper printed or published therein, by printing and posting the same in at least four public places therein for the same period; such notice shall distinctly and specifically state the work contemplated to be done; provided, that



the board of trustees may reject any and all bids presented and readvertise, in their discretion. The board of trustees shall annually, at a stated time, contract for doing all city printing and advertising, which contract shall be let to the lowest bidder, after notice, as provided in this section. [Amendment approved March 9, 1897; Stats. 1897, chap. lxxxvii.]

Signature of warrants and contracts.

Sec. 875. The president of the board of trustees shall preside over all meetings of the board at which he is present. In his absence a president pro tem. may be chosen. The president, and in his absence the president pro tem., shall sign all warrants drawn on the treasurer, and shall sign all written contracts entered into by said city or town, as such president or president pro tem. The authority and power of the president pro tem. shall continue only during the day on which he is chosen. The president and president pro tem. shall have power to administer oaths and affirmations, and take affidavits and testify the same under their hands. The president or president pro tem. shall sign all conveyances made by said city or town, and all instruments which shall require the seal of the city or town. The president is authorized to acknowledge the execution of all instruments executed by said city or town, that require to be acknowledged.

#### Article IV.—Executive Department.

Treasurer.

Sec. 876. It shall be the duty of the treasurer to receive and safely keep all moneys which shall come into his hands as treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the clerk. He shall pay out said money on warrants signed by the president and countersigned by the clerk, and not otherwise. He shall make quarterly settlements with the clerk. For his compensation he shall be allowed one per cent on all moneys received and paid by him as such treasurer. He may credit himself with such

per cent in his settlements with the clerk. Upon each quarterly settlement, he shall file a statement of his account with the clerk.

#### Assessor.

Sec. 877. It shall be the duty of the assessor, between the first day of May and the first day of August in each year, to make out a true list of all the taxable property within the city or town. The mode of making out of said list, and proceedings relating thereto, shall be in conformity with laws now in force regulating county assessors, except as the same may be otherwise provided in this act, or by ordinance. Said list shall describe the property assessed, and the value thereof, and shall contain all other matters required to be stated in such lists by county assessors. Said assessor shall verify said list by his oath, and shall deposit the same with the clerk on or before the first Monday of August of each year. The assessor shall, during said time, also make a list of all male persons residing within the limits of the city or town, over the age of twenty-one years, and shall verify said list by his oath, and shall, on or before the first Monday of August in each year, deposit the same with the clerk. Said assessor and his deputy shall have power to administer all oaths and affirmations necessary in the performance of his duty.

#### Clerk.

Sec. 878. It shall be the duty of the clerk to keep a full, true record of all the proceedings of the board of trustees and of the board of equalization. The proceedings of the board of trustees shall be kept in a book, marked "Records of the board of trustees." The proceedings of the board of equalization shall be kept in a separate book, marked "Records of the board of equalization." He shall keep a book, which shall be marked "City or town accounts," in which shall be entered as a credit all moneys received by the city or town for licenses, the amount of any tax when levied, and all other moneys when received, and in which shall be entered upon the debtor side all commissions deducted and all warrants drawn on the treasury. He shall also keep a book, marked

"Marshal's account," in which he shall charge the marshal with all the tax lists delivered to him, and all licenses delivered to him. He shall credit the marshal with the delinquent lists returned by him, and with his commission for collecting. He shall also keep a book, marked "Treasurer's account," in which he shall keep a full account of the transactions of the city or town with the treasurer. He shall also keep a book, marked "Licenses," in which he shall enter all licenses issued by him, the date thereof, to whom issued, for what, the time when it expires, and the amount paid. He shall also keep a book, marked "Attorney's account," and shall therein charge said attorney with all delinquent tax lists delivered to him, and shall credit him with money paid and delinquent tax lists returned. He shall keep a book, marked "Ordinances," into which he shall copy all city or town ordinances, with his certificate annexed to said copy stating the foregoing ordinance is a true and correct copy of an ordinance of the city or town, and giving the number and title of said ordinance, and stating that the same has been published or posted according to law. Said record copy, with said certificate, shall be prima facie evidence of the contents of the ordinance and of the passage and publication of the same, and shall be admissible as such evidence in any court or proceeding. Such records shall not be filed in any case, but shall be returned to the custody of the clerk. Nothing herein contained shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. Each of the foregoing books, except the records of the board of trustees and the board of equalization, shall have a general index, sufficiently comprehensive to enable a person readily to ascertain matters contained therein. The clerk shall also keep a book, marked "Demands and warrants," in which he shall note every demand against the city or town, and file the same. He shall state therein, under the note of the demands, the final disposition made of the same; and if the same is allowed, and a warrant drawn, he shall also state the number of the warrant, with sufficient dates. This book shall con-

tain an index, in which reference shall be made to each demand. Upon the completion of the assessment roll of any of the taxes of the city or town, and the levying of the tax thereon, the clerk shall apportion the taxes upon such assessment roll, and make out and deliver to the marshal a tax list in the usual form, taking his receipt therefor. He may appoint a deputy, for whose acts he and his bondsmen shall be responsible; and he and his deputy shall have power to administer oaths or affirmations, to take affidavits and depositions to be used in any court or proceeding in the state, and to certify the same. He and his deputy shall take all necessary affidavits to demands against the city or town, and certify the same without charge. He shall be the custodian of the seal of the city or town. He shall make a quarterly statement in writing, showing the receipts and expenditures of the city or town for the preceding quarter, and the amount remaining in the treasury. He shall at the end of every fiscal year make a full and detailed statement of the receipts and expenditures of the preceding year, and a full statement of the financial condition of the affairs of the city or town, which shall be published. He shall perform such other services as this act and the ordinances of the board of trustees shall require.

Attorney.

Sec. 879. It shall be the duty of the attorney to advise the city or town authorities and officers in all legal matters pertaining to the business of said city or town. He shall receive the delinquent list and receipt therefor; he is authorized to bring suit in the name of the city or town, in the proper court, for the collection of any tax; he shall receive for collecting taxes such per cent. on the amount collected as may be provided by ordinance, which said per cent shall be collected of the delinquent tax-payers as provided by ordinance. In case a suit shall be brought in the superior court upon a tax upon real estate to sell such real estate for the purpose of paying such tax and costs, he shall be allowed, in addition to the said per cent., twenty-five dollars for each suit

brought, to be taxed as costs in such suit, and not to be paid to said attorney unless collected of the defendant in such suit. Said attorney shall receive such other compensation as may be allowed by the board of trustees.

Marshal.

Sec. 880. The department of police of said city or town shall be under the direction and control of the marshal; and for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions, he shall have the powers that are now or may hereafter be conferred upon sheriffs by the laws of the state, and shall in all respects be entitled to the same protection; and his lawful orders shall be promptly executed by deputies, police officers, and watchmen in said city or town, and every citizen shall also lend him aid, when required, for the arrest of offenders and maintenance of public order. He shall, and is hereby authorized to, execute and return all process issued and directed to him by any legal authority. It shall be his duty to prosecute before the recorder all breaches or violations of or non-compliance with any ordinance which shall come to his knowledge. He shall collect all taxes levied by the board of trustees, except as is herein provided. He shall, at the expiration of any month, pay to the treasurer all taxes and other funds of said city or town collected by him during said month. He shall, upon payment of the money, file with the treasurer an affidavit, stating that the money so paid is all the taxes or funds that he has collected or received during the preceding month. He shall, upon the receipt of any tax list, give his receipt for the same to the clerk, and shall, upon depositing with the clerk the delinquent tax list, take his receipt therefor. He shall receive from the clerk all licenses, and collect the same. He shall have charge of the prison and prisoners, and of any chain gang which may be established by the board of trustees. He shall for service of any process receive the same fees as constables. He may appoint, subject to the approval of the board of trustees, one or more depu-

ties, for whose acts he and his bondsmen shall be responsible, whose only compensation shall be fees for the service of process, which shall be the same as those allowed to the marshal. He may also, with the concurrence of the president of the board of trustees, when the same may be by them deemed necessary for the preservation of public order, appoint additional policemen, who shall discharge the duties assigned them for one day only. He shall perform such other services as this act and the ordinances of the board of trustees shall require, and shall receive such compensation as shall be fixed by ordinance.

Compensation fixed by board.

Sec. 881. The board of trustees shall, by ordinances not inconsistent with the provisions of this chapter, prescribe the additional duties of all officers, and fix their compensation.

#### Article V.—Judicial Département.

Recorder's court.

Sec. 882. A recorder's court is hereby established in such city or town, to be held by the recorder of such city or town. Said recorder's court shall have jurisdiction, concurrently with the justice's courts, of all actions and proceedings, civil and criminal, arising within the corporate limits of such city or town, and which might be tried in such justice's court; and shall have exclusive jurisdiction of all actions for the recovery of any fine, penalty, or forfeiture prescribed for the breach of any ordinance of such city or town, of all actions founded upon any obligation or liability created by any ordinance, and of all prosecutions for any violation of any ordinance. The rules of practice and mode of proceeding in said recorder's court shall be the same as are or may be prescribed by law for justices' courts in like cases; and appeals may be taken to the superior court of the county in which such city or town may be situated, from all judgment of said recorder's court, in like manner and with like effect as in cases of appeals from justices' courts.



Powers of recorder as judge.

Sec. 883. The recorder shall be judge of the recorder's court, and shall have the powers and perform the duties of a magistrate. He may administer and certify oaths and affirmations, and take and certify acknowledgments. He shall be entitled to charge and receive for his services such fees as are or may be allowed by law to justices of the peace for like services, except that for his services in criminal prosecution for violation of ordinances he shall be entitled to receive only such fees as the board of trustees shall by ordinance prescribe.

Recorder disqualified as judge in certain cases.

Sec. 884. In all cases in which the recorder is a party, or in which he is interested, or when he is related to either party by consanguinity or affinity within the third degree, or is otherwise disqualified, or in case of sickness or inability to act, the recorder may call in a justice of the peace residing in the city or town to act in his place and stead; or if there be no justice of the peace residing in the city or town, or if all those so residing are likewise disqualified, then he may call in any justice of the peace residing in the county in which such city or town may be situated.

#### Article VI.—Miscellaneous Provisions.

Collection of moneys.

Sec. 885. Every officer collecting or receiving any moneys belonging to or for the use of such city or town shall settle for the same with the clerk on the first Monday in each month, and immediately pay the same into the treasury, on the order of the clerk, for the benefit of the funds to which such moneys respectively belong.

No officer to be interested in any public contract.

Sec. 886. No officer of such city or town shall be interested, directly or indirectly, in any contract with such city or town, or with any of the officers thereof in their official capacity, or in doing any work or furnishing any supplies for the use

of such city or town, or its officers in their official capacity; and any claim for compensation for work done, or supplies or materials furnished, in which any such officer is interested, shall be void, and if audited and allowed shall not be paid by the treasurer. Any willful violation of the provisions of this section shall be a ground for removal from office, and shall be deemed a misdemeanor, and punished as such. [See Statutes and Amendments, 1883, 93.]

An Act entitled "An Act to enable municipal corporations of the sixth class to elect officers."

[Approved March 14, 1885; Stats. 1885, 136.]

Petition for appointment of commissioners of election.

Section 1. Whenever a corporation of the sixth class shall have failed, from any cause, to elect officers in accordance with its charter, and there are no officers to carry on the city government, or call an election for officers, in any such case citizens of such corporation may present a petition to the governor for the appointment of three commissioners of election. Such petitions shall set forth: 1. The name of the corporation, and when, and how organized; 2. When the last election for officers took place, and whether any of such officers are performing their duties, and if not, how long since they ceased to perform their duties; 3. The provision of the charter as to the qualifications of voters; 4. That the persons signing the petition possess the qualifications provided by the charter for voters, and that each of said signers is a householder and freeholder in said corporation. The petition shall be signed by not less than seventy-five persons possessing all the qualifications mentioned in the body of the petition; and shall be verified by at least two of the signers, that, of their own knowledge, the petition is true, and that all the signers possess all the qualifications set forth in the petition. Upon the presentation of the petition to the governor, he may either act upon the petition or require additional evidence of the matters set forth in the petition.

Upon being satisfied of the truth of the matter set forth in the petition, the governor is authorized and empowered to appoint three persons as commissioners of election for such corporation. Such commission shall be known and styled "board of election commissioners for" (here give name of corporation).

Appointment of commissioners.

Sec. 2. The governor shall cause a commission to be issued to the commissioners, and the issuance of such commission shall be conclusive evidence of the regularity of all the proceedings to and including the appointment of such commissioner. Within ten days after their appointment, the commissioners shall take the oath of office before some judge or clerk, which oath shall be indorsed upon the commission, and a copy filed in the office of the secretary of state, and shall organize by the election of a president and secretary from their own members. The board shall cause to be kept minutes of all their proceedings, which minutes shall be signed at the close of each meeting by the president and secretary.

Powers of commissioners.

Sec. 3. The board of election commissioners shall have power: 1. By an order entered in their minutes, to call an election for such officers as are declared in the charter of such corporation to be elected only by the voters in said corporation. Such orders shall specify the names of the offices to be filled, and, when any office is to be filled by an election in any ward or subdivision of said corporation, the order shall so state, and the date fixed for the election. Previous to the election, the board shall appoint officers of election, and fix the places of holding the election, as required in the charter of such corporation. The board shall cause notice of such election to be published in one or more newspapers published in said corporation; or if none be published therein, then by posting notices, for at least twenty days before such election. Such election shall be conducted as required by the charter of said corporation for the election of officers, except that it shall not be necessary to use printed registers, but should any

voter be challenged on the ground that his name does not appear on the great register of the county, it shall be sufficient for him to state, under oath, that he believes his name is on the great register, and if no other evidence is offered, the board of election shall accept his statement as true.

#### Election returns.

Sec. 4. The boards of election shall make return of the election as required in the charter, except that the returns shall be returned and delivered to the board of election commissioners, of all officers voted for at such election, without reference to whether any of such officers were voted for in the whole, or only a ward or subdivision of the corporation, and no officer of election shall issue a certificate of election.

#### Canvassing returns.

Sec. 5. Within five days after the election the board of election commissioners shall proceed to canvass said returns and declare what persons were elected. Said board shall thereupon issue certificates of election to the persons so declared to be elected; such certificate shall be signed by all the commissioners, and shall be conclusive evidence of the regularity of all the proceedings taken in said election and by said board, except as against any suit or proceeding that may be commenced to oust from office any of said persons holding a certificate.

#### Officer qualifying.

Sec. 6. Within ten days after issuance of the certificates, the officers shall be qualified and enter upon the discharge of their duties, in accordance with the charter. If any person chosen at said election shall fail to take the oath of office and enter upon the discharge of the duties within the time above specified, then the office to which he shall have been elected shall be deemed and held to be vacant, the same as if he had never been elected. At the first meeting of the legislative department of the corporation after the election, the board of election commissioners shall deliver to said legislative department all books and papers in their possession, relating to their office of elec-

tion commissioners, and said legislative department shall cause the same to be filed by their clerk, and shall cause the commission issued by the governor to said commissioners, and the minutes of said commissioners, and notice of the election, to be entered in the book of minutes of said legislative department, and such entries, when so made, shall be evidence of all the matters therein stated, and as conclusive evidence as the original.

Effect of elections.

Sec. 7. Whenever the officers elected at such election, and the officers authorized by the charter to be elected or appointed by the legislative or executive department of said corporation, shall have qualified and entered upon the discharge of their duties, then said corporation shall be deemed and held to be fully organized and in operation, as if said election had been held at the time and in all respects in the manner required by the charter.

Resolution as to organization.

Sec. 8. Whenever the government of the corporation is in full operation, as set forth in section seven, the legislative department shall cause a resolution to be entered in their minutes declaring the same; and such resolution shall be conclusive evidence of the same, except as against a direct action or proceeding to set aside or annul said government.

Sec. 9. This act shall take effect from and after its passage.

An Act to provide for the disincorporation of municipal corporations of the sixth class.

[Stat. Approved March 26, 1895; Stats. 1895, chap. cxxv.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. A municipal corporation of the sixth class may disincorporate after proceedings had as required in this Act. The council, the board of trustees, or other legislative body of such corpo-

ration shall, upon receiving a petition therefor, signed by not less than one half of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation the question whether such municipal corporation shall disincorporate. Such question shall be submitted at a special election to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed or published in such corporation, or if there is no newspaper published in said corporation, then in some newspaper published in the county in which said corporation is situated, for a period of thirty days prior to such election. Said notice shall state that the question of disincorporating said corporation will be submitted to the legal voters of the same at the time appointed for such election, and the electors shall be invited thereby to vote upon such proposition by placing upon their ballots the cross, as provided by law, after the words "For disincorporation," or "Against disincorporation." Such legislative body shall also designate in said notice the place or places at which the polls will be open in said municipal corporation; and shall also appoint and designate in such notice the names of the officers of election. The vote at said election shall be taken, canvassed, and returned in the same manner as in other municipal elections. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. If it be found by the canvass of said votes that less than two thirds of the votes cast were in favor of disincorporation, such legislative body shall declare the petition for disincorporation denied; in which case no new election shall be held on the question of disincorporating, the corporation involved in said petition and vote until after the expiration of two years from date of the election so held. In case it shall appear from said canvass that two thirds of all the votes cast were in favor of disincorporation, said legislative body shall, under their hands, make and file in their office, and cause to be entered upon their record of proceedings, an order that the petition for such disincorporation be



granted, and declaring that such corporation be disincorporated; said order to take effect at the time hereinafter provided.

Said legislative body shall, in case said corporation is so disincorporated, forthwith cause their clerk, or other officer performing the duties of clerk, by an order entered in their minutes, to make and transmit to the secretary of state and board of supervisors of the county in which said corporation is situated, a certified copy and abstract of the notice of election hereinbefore provided for, the whole number of electors voting for said disincorporation, and the number of electors voting against said disincorporation. Thirty days from and after the holding of the election, in case two thirds of the said votes were cast in favor of said disincorporation, said municipal corporation shall be forever disincorporated. Said legislative body shall forthwith, after ascertaining by said canvass that said disincorporation has been carried, determine the amount of the indebtedness of said municipal corporation, the amount of money in the treasury thereof, and the amount of any tax levy made by said corporation unpaid or not due, and all other indebtedness due or coming due to said corporation, and within thirty days from the date of said election shall transmit a certified statement of said amount to the board of supervisors of the county in which said municipal corporation is situated; and the treasurer of said corporation shall before the expiration of said thirty days, turn over to the treasurer of said county all moneys of said municipal corporation in his possession, and said county treasurer shall place said moneys in a special fund, to be drawn upon as hereinafter provided for. Upon the disincorporation of said municipal corporation, every public officer of said corporation shall immediately turn over to the board of supervisors of the county in which said corporation is situated, all public property of every nature and description in their possession; provided, however, that all court records of the recorder's court of the said municipal corporation shall be retained by said recorder as justice of the peace of the township, and as such justice of the peace he shall have authority

to execute and complete all unfinished business standing on the same. Nothing contained in this act shall be held to relieve said municipal corporation, or the territory included within it, from any liability for any debt contracted by such municipal corporation prior to its disincorporation. All warrants for said indebtedness shall be drawn by the board of supervisors of the county in which said municipal corporation is situated, on the fund hereinabove provided for in the county treasury. If, at the time of said disincorporation, a tax shall have been levied by said municipal corporation, and remains uncollected, it shall be the duty of the tax collector of the county in which said municipal corporation was situated to collect said tax when due, and pay the same into the county treasury to the credit of the fund hereinabove provided for. If, at any time after the disincorporation of any such municipal corporation, it should be found that there is not sufficient money in the treasury to the credit of the fund hereinabove provided for, with which to pay any indebtedness of said municipal corporation, the board of supervisors of said county shall have the power, and it shall be their duty to levy, and there shall be collected from the territory formerly included within said municipal corporation, a tax or taxes sufficient in amount to pay the said indebtedness, or indebtedness of said municipal corporation; such tax or taxes, assessment, and collection shall be made in the same manner and at the same time that other taxes of said county are levied and collected, and shall be an additional tax upon the property included within said territory for the payment of said debts. If, after payment of the debts of said municipal corporation, there shall remain any surplus in the hands of said county treasurer to the credit of the fund hereinbefore mentioned, the money so remaining shall be transferred to the school fund of the districts or district covered by said municipal corporation. [Amendment approved Feb. 23, 1897; Stats. 1897, chap. xxii.]

Sec. 2. The board of supervisors of the county in which any such municipal corporation has been disincorporated, shall have the power, and it shall

be their duty to ascertain the indebtedness of said municipal corporation at the time of its disincorporation, and the amount of money in its treasury and the amount due to it at the said time, if the board of trustees or other legislative body of such corporation shall fail or refuse to return to said board of supervisors the statement of said amounts as hereinbefore in this act provided. Said board of supervisors shall make provision for the collection of the amounts due to said municipal corporation, and said county shall succeed to and possess all the rights of said municipal corporation in and to said indebtedness, and shall have power to sue for or otherwise collect any such debts, in the name of the county. All costs and expense of ascertaining the facts hereinbefore mentioned, and all other costs and expense incurred by the board of supervisors in the execution of the powers and duties of said board of supervisors, provided for in this act, shall be paid out of the special fund in said county treasury hereinbefore in this act provided for.

Sec. 3. This act shall take effect and be in force from and after its passage.

An Act to authorize and direct the municipal authorities of the several cities and incorporated towns of this state to execute certain trusts in relation to the town lands granted to the incorporated cities and towns in this state, by the act of congress entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March second, eighteen hundred and sixty-seven.

[Approved March 24, 1868; 1867-8, 487.]

This act was amended by act of March 4, 1872, Stats. 1871-2, p. 237.

An Act amendatory of and supplemental to an act entitled "An act to authorize and direct the county judges of the several counties of this state to execute certain trusts in relation to the town lands granted to the unincorporated towns in this state by the act of congress entitled 'An act for the relief of the inhabitants of cities and towns upon the public lands,' approved March second, eighteen hundred and sixty-seven," approved March thirtieth, eighteen hundred and sixty-eight.

[Approved March 12, 1885; 1885, 115.]

The original act is in the statute of 1867-8, p. 692.

Judges to enter land at land-office.

Section 1. Section one of said act is amended so as to read as follows:

Section 1. It shall be the duty of each of the persons who may be acting as a superior judge and judge of the superior court of any county in this state to enter at the proper land-office of the United States such quantity of land as the inhabitants of any unincorporated town, situated in the county of such superior judge, may be entitled to claim in the aggregate, according to their population, in the manner required by the laws of the United States, and the regulations prescribed by the secretary of the interior of the United States, and to make and sign all necessary declaratory statements, certificates, and affidavits, or other instruments requisite to carry into effect the intentions of this act, and the intention of the act of congress of the United States entitled "An act for the relief of the inhabitants of cities and towns upon the public lands, approved March second, eighteen hundred and sixty-seven," and to make proof, when required, of the facts necessary to establish the claim of such inhabitants to the lands so granted by said act of congress.

Estimate of expenses.

Sec. 2. Section two of said act is amended so as to read as follows:

Section 2. The superior judge of any county in this state, whenever he shall be so requested by a petition signed by not less than five residents,

householders in any unincorporated town, whose names appear upon the assessment roll for the year preceding such application—which petition shall set forth the existence, name, and locality of such town; whether such town is situated on surveyed or unsurveyed lands, and if on surveyed lands the quarter sections or lesser subdivision covered thereby shall be stated; the estimated number of its inhabitants; the number of separate lots or parcels of land within such town site, and the amount of land to which they are entitled under said act of congress—shall estimate the cost of entering such land, and of the survey and recording of the same, and shall indorse such estimate upon said petition; and upon receiving from any of the parties interested the amount of money mentioned in such estimate, the said superior judge may, if he shall deem it necessary, cause an enumeration of the inhabitants of such town to be made by some competent person, who shall be appointed for that purpose by such superior judge; and such enumeration shall be returned by the person so making the same, exhibiting therein names of all the heads of families and occupants of lots, lands, or premises within such town site, alphabetically arranged, verified by his oath, to the superior judge of the county.

#### Survey of lands.

Sec. 3. Section three of said act is amended so as to read as follows:

Section 3. The said superior judge shall thereupon cause a survey to be made, by some competent person, of the lands which the inhabitants of said town may be entitled to claim under the said act of congress, located according to the legal subdivision of the sections and by the section lines of the United States, and the same shall be distinctly marked by suitable monuments. Such surveys shall further particularly designate all streets, roads, lanes, and alleys, public squares, churches, school lots, cemeteries, and commons, as the same exist, and have been heretofore dedicated in any manner to public use; and by measurement, the precise boundaries and area of each and every lot or parcel of land and premises claimed by any

person, corporation, or association, within said town site, shall be designated on the plat, showing the name or names of the possessor or occupant, and claimant, if other than the occupant, of each particular lot and parcel of land; and in case of any disputed claim as to lots, lands, premises, or boundaries, the said surveyor, if the same be demanded by any person, shall designate the lines (in different color from the body of the plat) of such part of any premises so disputed or claimed adversely. A plat thereof shall be made in triplicate, on a scale of not less than eighty feet to one inch, which shall be duly certified under oath by the surveyor, one of which shall be filed with the county recorder of the county wherein the town is situated, one shall be deposited with the superior judge, and one shall be deposited with the justice of the peace resident in or nearest to such town. These plats shall be considered public records, shall each be accompanied with a copy of the field-notes, and the county recorder shall make a record thereof in a book to be kept by him for that purpose. The said surveyor shall number the blocks, as divided by the roads and streets opened at the time of making such survey, and shall number the several lots consecutively in each block, and all other parcels of land within said town site surveyed as herein provided, which said numbers shall be a sufficient description of any parcel of land in said plat when mentioned by reference to such town plat; and such plats, field-notes, and records, and certified copies thereof, shall be prima facie evidence of the contents and correctness thereof in all the courts of this state.

Notice to be given.

Sec. 4. Section four of said act is hereby amended so as to read as follows:

Section 4. Before proceeding to make such survey, at least ten days' notice shall be given by the superior judge, by posting within the limits of such town site not less than five written or printed notices of the time when such survey shall commence, and by publication thereof in a newspaper published in such town, if one there be. The survey of said town lands shall be made to the best advantage, and at the least expense to the hold-



ers and claimants thereof; and the said superior judge is hereby authorized to receive bids for such surveying, and to let the same by contract to the lowest competent bidder.

Dedicated to public use.

Sec. 5. Section five of said act is hereby amended so as to read as follows:

Section 5. All streets, roads, lanes, and alleys, public squares, cemeteries, and commons, surveyed, marked, and platted, on the map of any town site, as prescribed and directed by the provisions of this act, shall be deemed and considered, and they are hereby declared to be, dedicated to public use, by the filing of such town plat in the office of the county recorder, and shall be inalienable, unless by special order of the board of supervisors of the county, so long as such town shall remain unincorporated; and if such town shall at any time hereafter become incorporated, then the same shall become the property of such town or city, and shall be under the care and subject to the control of the board of trustees, or other municipal authority of such town or city.

Assessment on land.

Sec. 6. Section six of said act is hereby amended so as to read as follows:

Section 6. Each lot or parcel of said land having thereon valuable improvements, or buildings ordinarily used as dwellings or for business purposes, not exceeding one tenth of one acre in area, shall be rated and assessed by the said superior judge at the sum of one dollar; each lot or parcel of such lands exceeding one tenth and not exceeding one eighth of one acre in area shall be rated and assessed at the sum of one dollar and fifty cents; each lot or parcel of such lands exceeding in area one eighth of one acre and not exceeding one quarter of an acre in area shall be rated and assessed at the sum of two dollars; and each lot and parcel of such lands exceeding one quarter of an acre and not exceeding one half of one acre in area shall be rated and assessed at the sum of two dollars and one half; and each lot or parcel of land so improved exceeding one half an acre in area shall be assessed at the rate of two dollars

and one half for each half an acre, or fractional part over half an acre; and every lot or parcel of land inclosed, which may not be otherwise improved, or uninclosed, claimed by any persons, corporation, or association, shall be rated and assessed at the rate of two dollars per acre or fractional part over an acre; and where, upon one parcel of land, there shall be two or more separate buildings, occupied or used ordinarily as dwellings, or for business purposes, each such building, for the purposes of this section, shall be considered as standing on a separate lot of land, but the whole of such premises may be conveyed in one deed; which moneys so assessed shall be paid in gold and silver coin of the United States, and shall constitute a fund from which shall be reimbursed or paid the moneys necessary to pay the government of the United States for said town lands, and interest thereon, if such moneys shall have been loaned or advanced for the purpose and expenses of their location, entry, and purchase, and the costs and expenses attendant upon the making of such survey and recording thereof.

#### Surplus.

Sec. 7. Section seven of said act is hereby amended so as to read as follows:

Section 7. Any sum of money remaining, after defraying all the necessary expenses of location, entry, surveying, platting, and recording of lands, and the expenses of the superior judge hereinafter mentioned, shall be deposited in the county treasury, to the credit of the fund of each particular town, and shall be kept separate by the county treasurer, to be paid out by him only on the written order of such superior judge, until after the expiration of the time for a final settlement of the affairs of such town lands, as hereinafter provided, at which time any and all balances of moneys so remaining to the credit of each town shall be transferred by such county treasurer to the school fund of the particular school district in which said town shall be situated.

Affidavits to be made by claimants of lots.

Sec. 8. Section eight of said act is hereby amended so as to read as follows:

Section 8. Every person, corporation, or association, claimant of any town lot or parcel of land within the limits of such town site, shall present to the superior judge, within six months after the plat shall have been filed in the office of the county recorder, his, her, or their affidavit, verified in person, or by duly authorized agent, or attorney, in which shall be concisely stated the facts constituting the possession or right of possession of the claimant, and that the claimant is entitled to the possession thereof as against all other persons, to the best of his knowledge and belief, to which shall be attached a copy of so much of the plat of said town site as will fully exhibit the particular lot or parcel of land so claimed, with the abutments; and every such claimant, at the time of filing such affidavit, shall pay to such superior judge such sum of money as such judge shall thereon certify to be due for the assessment mentioned in section six of this act, together with the further sum of five dollars, in the gold or silver coin of the United States, to be appropriated to the payment of the expenses incurred in carrying out the provisions of this act; and the superior judge shall thereupon give to such claimant a certificate containing a description of the lot or parcel of land claimed, and setting forth the amounts paid thereon by such claimant. The superior judge shall procure a bound book for each town in his county, wherein he shall make proper entries of the substantial matters contained in every such certificate issued by him, numbering the same in consecutive order, setting forth the name of the claimant or claimants in full, date of issue, and description of lot or lots claimed.

Assessment insufficient to pay expenses.

Sec. 9. Section nine of said act is hereby amended so as to read as follows:

Section 9. If it shall be found that the amounts hereinbefore specified as assessments and fees for costs and expenses shall prove to be insufficient to cover and defray all the necessary expenses, the superior judge shall be and he is hereby empowered to estimate the deficiency, and to assess such deficiency pro rata upon all the lots and parcels

of lands in such town, and to declare the same upon the basis set down in section six of this act, which additional amount, if any, may be paid by the claimant at the time when the certificate hereinbefore mentioned, or at the time when the deed of conveyance hereinafter provided for, shall be issued.

When deeds to be delivered—Actions—Mining claims.

Sec. 10. Section ten of said act is hereby amended so as to read as follows:

Section 10. At the expiration of six months after the issuance of the certificate mentioned in the preceding section, if there shall have been no adverse claim filed in the mean time, the said judge shall make, execute, acknowledge, and deliver to each claimant, or to his, her, or their heirs, administrators, or assigns, a good and sufficient deed of the premises described in the application of the claimant originally filed. No conveyance of any such lands, made as in this act provided, shall be deemed to conclude the rights of third persons; but such third persons may have their actions in the premises to determine alleged interest in such lands against such grantee, his heirs, or assigns, to which they may deem themselves entitled either in law or equity; provided that no action for the recovery of the possession of such premises, or any portion thereof, shall be maintained in any court against the grantee named therein, or against his, her, or their assigns, unless such action shall be commenced within two years after such deeds shall have been filed for record in the office of the county recorder of the county where such lands are situated; and provided, that nothing herein shall be construed to extend the time of limitation prescribed by law for the commencement of actions upon a possessory claim or title to real estate when such action is barred by law at the time of the passage of this act; provided further, that whenever mining claims shall have been located and held bona fide for mining purposes, such mining rights, according to the metes and bounds of so located and claimed, shall not in any manner be affected by the provisions of this act,

nor shall any sale be made, nor any title be conveyed by reason of any sale or pretended sale of such lands so claimed for mining purposes until after the occupancy of such mining claims shall have been abandoned by the holders thereof.

**Adverse claims—Action for possession.**

Sec. 11. Section eleven of said act is amended so as to read as follows:

Section 11. In all cases of adverse claims, or disputes arising out of conflicting claims to lands or boundary lines, the adverse claimants may submit the decision thereof to the superior judge by an agreement in writing, specifying particularly the subject matter in dispute, and may agree that his decision shall be final; in which case the said judge may hear the proofs and shall execute a deed in accordance therewith; but in all other cases of adverse claim, the party out of possession shall commence his action in a court of competent jurisdiction within six months after the filing of the town plat in the office of the county recorder. In case such action be commenced, the plaintiff shall serve a notice, *lis pendens*, upon the superior judge, who shall thereupon stay all proceedings in the matter of granting any certificate or deed until the final decision of such suit; and upon presentation of a certified copy of the final decree of such court in such action, the superior judge shall execute and deliver a deed of such premises in accordance with the decree. In case no such action be commenced within the time herein prescribed, the superior judge shall deliver his deed to the party in possession, as provided in section ten of this act.

**Notice of filing of plat.**

Sec. 12. Section twelve of said act is amended so as to read as follows:

Section 12. The superior judge shall give public notice, by advertisement for four weeks in some newspaper published in the county, if one there be, and if there be no newspaper published in said county, then by not less than five written or printed notices posted within the limits of such town site, that the plat thereof has been filed in the recorder's office; and if any person, company,

or association, or other claimants of lands in such town, shall fail, neglect, or refuse to make application to the said superior judge for a deed of conveyance of the lands so claimed, and to pay the sum of money specified in this act, within six months after the filing of said plat, the superior judge shall enter on his book the names of all such persons, with a description of the property or premises, and shall certify the same as delinquent for the amount of assessments certified to by such judge as due under section six of this act; and at the expiration of thirty days after making such entries, if such application be not made and such assessment be not paid, the said judge shall proceed to advertise all such lots and parcels of land for sale in the same manner as real estate is required to be advertised under execution.

#### Sale of delinquent land.

Sec. 13. Section thirteen of said act is amended so as to read as follows:

Section 13. At the time of sale mentioned in said advertisement, said judge shall proceed to sell all such parcels of land so remaining delinquent, by public auction, to the highest bidder for cash, at some public place within the limits of said town site; and he shall give to the purchaser at such sale a certificate of his purchase, setting forth therein a description of the premises sold, the amount paid, and that the same is subject to redemption, as prescribed in the next section; provided, that no sale shall be made for less than the whole amount of assessments and the costs of making the sale, which costs shall be divided pro-rata among the several parcels offered for sale.

#### Redemption.

Sec. 14. Section fourteen of said act is amended so as to read as follows:

Section 14. At any time within six months after such sale the original claimant shall be entitled to redeem such premises, by paying to the purchaser, or to the superior judge for purchaser, double the whole amount of the purchase money, in gold and silver coin; but in case no redemption be made the purchaser, his heirs or assigns, shall be entitled to demand and receive from the superior judge a



deed of such premises, which deed shall be absolute as against the parties delinquent, and shall entitle the grantee, his heirs, or assigns, to a writ of assistance from the superior court having jurisdiction of the premises.

#### Unclaimed lands.

Sec. 15. Section fifteen of said act is amended so as to read as follows:

Section 15. If within six months after the giving of the public notice that the plat of any townsite has been filed in the recorder's office as provided in section twelve of this act, there shall remain any unoccupied, or vacant unclaimed lands, or lands not previously surveyed into town lots under the provisions of this act, and any person has hitherto or shall hereafter discover gold in any portion thereof in quantities which he may deem sufficient to justify the profitable working thereof (his judgment thereon to be conclusive), and has located and held the same bona fide for mining purposes, such mining possession shall constitute him a preferred purchaser thereof, from the judge of the superior court, according to the metes and bounds of his location thereof, within the meaning of this act; and he may apply to the judge of the superior court for a deed thereto, which application he shall accompany with a deposit to be held by such judge in an amount to be estimated by him sufficient to pay the expenses of a survey and the platting thereof as herein provided for.

The said Superior Judge shall thereupon cause a survey and plats to be made of such mining possession, and shall cause such plats and a copy of the field notes of such survey to be filed in the Recorder's office of the county in which such town is situated in the manner provided in section three of this Act, and such filing shall have the effect therein provided, but the provisions of section four of this Act shall not apply to any survey made under the provisions of this section.

After the filing of such plats and such copy of field notes, said judge shall sell the said land so embraced within such mining possession to the bona fide possessor thereof at a price equal to one dollar and a quarter per acre or fraction of an acre

thereof, and the expenses of the surveying and platting thereof; and in case two or more claimants apply for the same tract, or parcel of the same tract, said judge shall determine who is entitled thereto, and shall sell the same to the party so entitled.

If any person has hitherto or shall hereafter occupy any portion of such unsurveyed lands, and shall, in good faith, make improvements thereon for any purpose other than mining, he shall have to the extent of his possession thereof the same rights and privileges hereunder as such possessor for mining purposes.

And any person not in possession may, at any time, apply to such Superior Judge for a survey into lots and a platting of any such unoccupied, or vacant unclaimed lands, or lands not previously surveyed into town lots under the provisions of this Act, and upon his depositing with such judge an amount to be estimated by him as sufficient to defray the expenses thereof, said judge may, at his discretion, cause any portion of such lands to be laid out and surveyed under his supervision into a suitable tract or lot, or into suitable blocks and lots, as such judge shall determine, and shall reserve such portions as shall be deemed necessary for public squares and school-house lots; and shall cause all necessary roads, streets, lanes, and alleys to be laid out through the same, and dedicated to public use; and the said judge shall, upon such survey being completed, proceed in the manner provided in section three of this Act to have plats made thereof in duplicate, and such plats and a copy of the field notes of such survey filed and disposed of as in said section three provided for, and with like effect as therein given to the original plats and field notes of the survey of such town-site; and the said judge shall sell the same in suitable parcels to the applicant for such survey, or to other parties at the price hereinbefore stated, and in case two or more parties apply for the same tract or parcel of the same tract, he shall sell the same at public auction to the highest bidder upon ten days' notice given by posting three notices of such sale in public places in such town, but no bid for less than the minimum price herein stated shall be received at such sale.

If no sale is made, said judge may, in his discretion, offer such land for sale in the same manner at any future time.

Said judge shall execute to any purchaser, under the provision of this section, all necessary deeds of conveyance, and such deeds shall be prima facie evidence of the truthfulness of all recitals therein contained.

Any surplus left of the deposit, in this section provided to be made, shall be returned to the depositor thereof, after proceedings hereunder are completed. [Amendment approved March 9, 1897; Stats. 1897, ch. 90. In effect immediately.]

School lots.

Sec. 16. Section sixteen of said act is amended so as to read as follows:

Sec. 16. All school lots and parcels of land reserved for school purposes, as aforesaid, by order of the superior judge, shall be conveyed to the school trustees of the school district in which such town is situate, without cost or charge of any kind whatever.

False oaths.

Sec. 17. Section seventeen is amended so as to read as follows:

Sec. 17. If any person shall falsely make oath to any affidavit required to be made by this act, he or she shall be deemed guilty of perjury, and upon conviction, shall be punished accordingly.

Deeds fraudulently obtained.

Sec. 18. Section eighteen of said act is amended so as to read as follows:

Sec. 18. If any guardian or administrator, or tenant, joint tenant, tenant in common, coparcener, or partner in the possession of any of the lands mentioned in this act, shall fraudulently procure, or cause, permit, suffer, or allow any deed to be obtained therefor, for his or her sole benefit, or by his or her neglect allow the same to be done by others, such deed shall be null and void, and shall convey no title, and an action may be brought by any party injured or aggrieved thereby or claiming any interest in such premises, for the recovery of such interest, at any time within five years after the discovery of such fraud.

Vacancy in office of judge.

Sec. 19. Section nineteen of said act is amended so as to read as follows:

Sec. 19. In case a vacancy shall occur from any cause in the office of superior judge during the pendency of any of the proceedings to be taken under this act, upon the election or appointment of a successor, it shall be the duty of the county clerk to make out a certificate, under seal, showing the facts and name of such successor, and file the same with the county recorder, who shall record such certificate in a book of deeds, and shall attach the original to the town-book in his office.

Compensation.

Sec. 20. Section twenty of said act is amended so as to read as follows:

Sec. 20. For service performed under this act, the superior judge shall be entitled to receive, out of the moneys provided for, to be paid into his hands, the sum of one dollar per mile for all travel necessarily performed by him on such duty; for every deed executed by him, the sum of five dollars, as provided in section eight of this act, which shall include the acknowledgment and revenue stamp thereon required; and for every certificate issued by him, the sum of fifty cents.

Currency.

Sec. 21. Section twenty-one of said act is amended so as to read as follows:

Sec. 21. All moneys required to be paid by any person under this act shall be paid in gold and silver coin, except that for the payment of the price of the land to the government of the United States the superior judge shall be authorized and requested to purchase, at the market price, so much in legal-tender notes as may be requisite therefor.

Judge's account.

Sec. 22. Section twenty-two of said act is amended so as to read as follows:

Section 22. Every superior judge, when fulfilling the duties imposed upon him by the act of congress aforesaid, and by this act, shall keep a correct account of all moneys received and paid out by him. He shall deposit all surplus moneys with the county treasurer of his county, and at the end

of one year from the time when the town plat of any town shall be filed in the county recorder's office he shall settle up all the affairs pertaining to said town, and shall pay over to the county treasurer all moneys belonging to said town. for the use and benefit of the school district in which said town may be situate; provided, that if any claims to lands in such town shall be the subject of litigation, the same shall be finally settled by such superior judge, whenever the final decree of court shall be served upon him.

Deposit of books with county clerk.

Sec. 23. Section twenty-three of said act is amended so as to read as follows:

Sec. 23. Whenever the affairs of any such town shall be finally settled and disposed of by such superior judge, he shall deposit all books and papers relating thereto in the superior court of his county, to be thereafter kept in the custody of the county clerk as public records, subject to the inspection of any citizen.

Informality not to injure.

Sec. 24. No mere informality, failure, or omission, on the part of any of the persons or officers named in this act shall invalidate the acts of such person or officer, but every certificate or deed granted to any person, pursuant to the provisions of this act, shall be deemed, taken, and considered as conclusive evidence that all preliminary proceedings in relation thereto have been correctly taken and performed.

Proviso.

Sec. 25. This act shall take effect and be in force from and after its passage; provided, that the towns of Shasta and Red Bluff shall be and are hereby excepted and exempted from the operation of its provisions.

An Act to validate the organization and incorporation of municipal corporations.

[Stat. approved March 17, 1897; Stats. 1897; chap. cxii.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. All municipal corporations, the or-

ganization and incorporation of which have been authenticated by an order of a Board of Supervisors in this State, declaring the same incorporated as municipal corporations of the classes to which such corporations may respectively belong, and a certified copy of which order has been filed by such Board of Supervisors in the office of the Secretary of State, showing such copy of said order to have been filed in said office, and which corporations thereafter have acted in the form and manner of municipal corporations under the provisions of "An Act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, and the amendments thereto, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the Board of Supervisors with the Secretary of State; and all the acts of the said municipal corporations heretofore exercised according to the Act aforesaid, are hereby validated and declared as legal.

Sec. 2. This Act shall take effect from and after its passage and approval.

An Act to validate proceedings for the reorganization of municipal corporations taken since the passage of the act entitled "An Act to provide for the organization, incorporation, and government of municipal corporations," approved March 13, 1883.]

[Approved March 16, 1889; 1889, 203.]

Acts of municipal corporations validated.

Section 1. All cities and counties, cities, or towns reorganized, or claiming to have been reorganized, since the passage of the act, the title of which is recited in the title hereof, or which have attempted since said date to reorganize or incorporate under the provisions of said act, and have acted as municipal corporations since such reorganization, are hereby declared to be, and to have been from the date of such reorganization, or attempted reorganization, duly and legally incorporated and reorganized cities, and all proceedings for the reorganization of such municipal cor-



porations are hereby validated and declared legal.

An act almost identical in language with this one was passed in 1887: Act approved March 15, 1887; Statutes 1887, 150.

An act of the same nature but more extensive in its operation was also passed March 11, 1891; Stats. 1891, p. 92.

An Act to enable cities incorporated and operating under a charter framed under section eight, article eleven, of the Constitution, to abandon and annul such charter, and organize under general laws.

[Stat. approved March 27, 1897. Stats 1897; chap. cxxxviii.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. The common council, or other legislative body of any city in this state, operating under a charter framed under section eight, article eleven, of the Constitution, shall have power, and it shall be their duty, whenever a petition is presented to them, signed by one-half of the qualified electors of such city, by ordinance, to submit to the qualified electors of such city at any general election, the question whether such city shall abandon such charter and reorganize under the general laws of the State providing for the organization, incorporation, and government of municipal corporations. Such election shall be called and held in accordance with the provisions of such charter for calling and holding elections, and if two-thirds of such qualified electors voting at such election shall vote to abandon such charter and reorganize under the general laws of the State providing for the organization, incorporation, and government of municipal corporations, such city shall, from and after the thirtieth day after such election, cease to be organized under such charter, and such charter shall be superseded by said general laws, and organized thereunder. In case such proposition shall fail to receive the vote of two-thirds of such electors, then the proposition for the abandonment of such charter and reor-

ganization under the general laws shall not be again submitted for two years.

Sec. 2. All officers of such city shall continue in office, and their powers under said charter shall not cease until officers shall have been elected and qualified under said general laws.

Sec. 3. This Act shall take effect immediately.

An Act to provide for the sale of an excess of water when owned by a municipality.

[Stat. approved March 27, 1897. Stats. 1897, chap. cxxi.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. Whenever the water supply owned by any city, incorporated town, county, or city and county, is in excess of the amount required to supply the water required by the inhabitants thereof, it may be declared by ordinance that such excess exists, and such excess of water may be sold outside of the limits of the corporation; but in no case shall a contract be made for a supply of any excess of water sold by a city, incorporated town, county, or city and county, outside the corporate limits for a period longer than one year; and in no case shall such a contract be made unless the legislative authority of a city, incorporated town, county, or city and county, declare by ordinance that there exists an excess of water not required to supply the inhabitants of the city, incorporated town, county, or city and county, within the term of the contract, but water not required to supply the inhabitants of a city, incorporated town, county, or city and county, may be sold by the authorities thereof outside the corporate limits from month to month during the existence of such excess, and shall be sold only at the rates fixed for consumers inside the corporative limits.

Sec. 2 This Act shall take effect immediately.

An Act authorizing municipal corporations to lease, purchase, own, and operate gravel-beds and quarries, and to transport gravel and rock therefrom to such municipal corporations, for the purpose of making, improving, and repairing roads.

[Approved March 27, 1897; Stats. 1897, chap. clx.]  
Municipal corporations may acquire gravel beds and quarries.

Sec. 1. Any incorporated city or town in this State may acquire, lease, purchase, and operate any gravel-bed or quarry within the county where such city or town is situated, and may equip and operate a plant at such gravel-bed or quarry, or within such town or city, for the purpose of breaking, crushing, or otherwise preparing gravel or rock to be used in making, paving, improving, or repairing its streets. Any such city or town may acquire, lease, or purchase and maintain all necessary roads, rights of way, and tramways over which to transport gravel or rock from such gravel-bed or quarry to such city or town, and all necessary appliances for that purpose.

Two-thirds vote necessary.

Sec. 2. No money shall be expended or expense incurred for any of the purposes set forth in section one, unless the same is authorized at a regular meeting of the legislative body of such city or town, and by a vote of two-thirds of the members thereof.

Sec. 3. This Act shall not extend or enlarge any limitation upon municipal taxation or the expenditure of municipal funds, now existing by reason of state laws or city charters in any of the cities or towns of this State.

An Act to provide for the classification of municipal corporations.

[Approved March 2, 1883; 1883, 24.]

Classes described.

Section 1. All municipal corporations within the State are hereby classified as follows: Those hav-

ing a population of more than two hundred thousand shall constitute the first class; those having a population of more than thirty thousand, and not exceeding two hundred thousand, shall constitute the second class; those having a population of more than fifteen thousand, and not exceeding thirty thousand, shall constitute the third class; those having a population of more than ten thousand, and not exceeding fifteen thousand, shall constitute the fourth class; those having a population of more than three thousand, and not exceeding ten thousand, shall constitute the fifth class; those having a population of not exceeding three thousand, shall constitute the sixth class. [Amendment approved April 1, 1897; Stats. 1897, chap. cclxii. In effect immediately.]

Determination based on census.

Sec. 2. The census taken under the direction of the congress of the United States in the year eighteen hundred and eighty, and every ten years thereafter, shall be the basis upon which the respective populations of said municipal corporations shall be determined, unless a direct enumeration of the inhabitants thereof be made, as in this act provided, in which case such direct enumeration shall constitute such basis.

Question of reorganization.

Sec. 3. The Council, Board of Trustees, or other legislative body of any municipal corporation, may at any time cause an enumeration of the inhabitants to be made, and in such manner and under such regulations as such body may, by ordinance, direct. If upon such enumeration it shall appear that such municipal corporation contains a sufficient number of inhabitants to entitle it to reorganize under a higher or lower class, the Common Council, Trustees, or other legislative body, shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors thereof, submit to the electors of such city or town, at the next general election to be held therein, or at a special election, which the legislative body of such municipal corporation may by ordinance call for that purpose, the question whether such city or town shall reorganize under the laws relating to municipal corporations of the class to which such city or town may belong. And there-

upon such proceedings shall be had and election held, as provided in the general law for the organization, incorporation, and government of municipal corporations and not inconsistent with the provisions of this Act. If a majority of the votes cast at such election shall be in favor of such reorganization, thereafter such officers shall be elected as are, or may be, at the time prescribed by law for municipal corporations of the class having the population under which such reorganization is had; and from and after the qualification of such officers, such corporation shall belong to such class. [Amendment approved March 27, 1897; Stats. 1897, chap. clxii. In effect immediately.]

An Act concerning municipal corporations.

• [Approved March 9, 1885; 1885, 31.]

Validating acts of municipal corporations.

Section 1. All municipal corporations, whose incorporation has been or may hereafter be authenticated by an order of any board of supervisors in this state, declaring the same incorporated as a municipal corporation, and a certified copy of which order has been or may hereafter be filed by such board of supervisors in the office of the secretary of state, and which have heretofore been or may hereafter be organized under a certificate from the secretary of state, showing such order to have been filed in his office, and which thereafter have acted, or hereafter may act, in the form and manner of a municipal corporation, under the provisions of an act entitled "An act to provide for the organization, incorporation, and government of municipal corporations," approved March thirteenth, eighteen hundred and eighty-three, are hereby declared to be and to have been municipal corporations from the date of filing the certified copy of said order of the board of supervisors with the secretary of state; and all the acts of said municipal corporations heretofore exercised, or which may be hereafter exercised, according to the act aforesaid, are hereby validated and declared to be legal.

Sec. 2. This act shall take effect immediately.

An Act to promote the protection of cities, towns, and municipal corporations from overflow by water and the drainage of the same, and for such purposes authorizing the incurring of indebtedness and the issuance of bonds therefor by the same, and providing for the disposition of the proceeds of such bonds, and for the supervision of the protective and other works.

[Stat. approved March 26, 1895. Stats. 1895, chap. cvi.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. Any city, town, or municipal corporation incorporated under the laws of this State may, by procedure hereinafter prescribed, incur indebtedness and liability, although in excess of the income and revenue by it provided for the current fiscal year, but not so that the aggregate funded indebtedness thereof shall exceed six per cent of the assessed value of all the real and personal property in the municipality, for the purpose of protecting such city, town, or municipal corporation from overflow by water, and for the purpose of draining such city, town, or municipal corporation, and for the purpose of securing an outlet for such overflow water and drainage, or for any part of said purposes, whether by means of canals, ditches, levees, dikes, embankments, dams, and machinery and other like appropriate or ancillary means or works, or any of the same, whether situated within or without the territorial limits of such city, town, or municipal corporation.

Sec. 2. The procedure mentioned in section one aforesaid shall be as follows, to wit: The City Council or legislative body of such city, town, or municipal corporation shall, first, have made by some competent person general plans and estimates of the cost of such canals, ditches, levees, dikes, embankments, dams, machinery, and other means or works as may be contemplated, which general plans and estimates shall, after adoption, be filed in the office of the Clerk of such municipality, and which general plans shall be substantially adhered to thereafter in proceedings under



this Act. Said City Council or legislative body shall, secondly, after the filing of such general plans and estimates, and by resolution or ordinance passed at a regular meeting by a vote of two thirds of all its members and approved by the executive of the municipality, determine, if so advised, that the public good demands the construction, acquisition, and completion, or either, of canals, ditches, levees, dikes, embankments, dams, machinery, and other like appropriate or ancillary means, or works, or any of the same, for any or all of the purposes mentioned in section one aforesaid; and shall further, by the same resolution or ordinance, determine, if so advised, that the cost of the same will be too great to be paid out of the ordinary income or revenue of the municipality; and such resolution or ordinance, shall, after its passage and approval, be published as hereinafter prescribed. Said City Council or legislative body shall, within one month after the publication aforesaid, and by resolution or ordinance passed at a regular meeting by a vote of two-thirds of all its members, and approved by the executive of the municipality, call a special election, and submit to the qualified voters of such city, town, or municipal corporation the proposition to incur a debt for any or all of the purposes mentioned in section one aforesaid, and which have been as aforesaid determined to be demanded for the public good. The resolution or ordinance calling such special election shall specify the purpose for which the indebtedness is proposed to be incurred, the estimated cost of the things proposed, that bonds of the municipality will issue in the amount of such estimated cost, the number and character of such bonds, the rate of interest to be paid, and the amount of the tax levy for each year during the outstanding of such bonds to be made for their payment. Such last-named resolution or ordinance shall be published as hereinafter prescribed. Such City Council or legislative body shall cause to be published, after the publication last named and prior to the day of holding such special election, a notice of the same, which notice shall set forth substantially all the matters contained in the aforesaid resolution or ordinance calling such special election.

Sec. 3. Every publication hereinbefore mentioned or required shall be in some newspaper published in such city, town, or municipal corporation; if in a daily paper in at least ten issues thereof, and if in a weekly paper in at least two issues thereof; and no publication shall be deemed to have begun until any one required preceding the same shall have been completed.

Sec. 4. Such special elections shall be held in the manner provided by law for holding elections in such city, town, or municipal corporation.

Sec. 5. It shall require the votes of two-thirds of all the voters voting at such special election to authorize the incurring of any indebtedness or the issuance of any bonds under this Act. If two-thirds of all the votes cast at such special election be in favor of the proposition submitted, the City Council or legislative body may, by ordinance reciting the result of said election, provide for the issuance of the proposed bonds and any matter incidental thereto.

Sec. 6. All municipal bonds issued under this Act shall be of the kind known as serials, and of such denominations as the City Council or legislative body may determine; provided, that no bond shall be for less than one hundred dollars nor for more than one thousand dollars, and that not less than one-fortieth part of the whole indebtedness evidenced by the whole of the issue of such bonds shall be, by the terms of such bonds, made payable each and every year. Each bond shall be made payable either in gold coin or other lawful money of the United States as may be expressed in such bond, on a day and at a place designated therein, with interest at the rate specified therein, which rate shall not exceed seven per cent per annum, to be fixed by such City Council or legislative body. Said place of payment shall be either at the office of the Treasurer of the municipality, or at some designated bank in San Francisco, Chicago, or New York. Said bonds shall be executed on the part of such municipality by the Mayor or other executive thereof, and by the Treasurer thereof, and countersigned by the Clerk of the municipality. The interest coupons shall be numbered consecutively and signed by the Treasurer.

Sec. 7. Any of such bonds may be issued by the

City Council or legislative body of such city, town, or municipal corporation, and by the same sold, at not less than their face value; and the proceeds of such sale shall be deposited in the municipal treasury to the credit of a designated fund and be applied exclusively to the purposes and objects for which, as aforesaid, the electors have voted to incur indebtedness or liability, until such purposes and objects shall have been accomplished. after which, the surplus, if any, may be transferred to the General Fund of the municipality.

Sec. 8. Such City Council or legislative body shall, at the time of fixing the general tax levy, and in the manner for such general tax levy provided, levy and collect annually, each year, for the term of forty years, a tax sufficient to pay the annual interest on such bonds and also one-fortieth part of the aggregate amount of such indebtedness so incurred. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are collected.

Sec. 9. The City Council or legislative body of every city, town, or municipal corporation wherein or for which any public works or improvements are being had or constructed for the purposes hereinbefore specified, and for which indebtedness has been incurred under the provisions of this Act, shall have power to make all needful rules and regulations for acquisition, construction, and completion of such works and improvements; to appoint all needful agents, superintendents, and engineers to supervise and construct the same, and shall have power in all lawful ways to protect and preserve the rights and interests of the municipality in respect thereof.

Sec. 10. All contracts as to said works and improvements shall be let, in such parcels as the City Council or legislative body may determine, to the lowest responsible bidder, after notice given for at least ten days by publication in one or more newspapers published in the municipality, inviting sealed proposals. Security or bonds may be required in order to guarantee good faith in bidding and in the performance of contracts, or either, in such amount as such Council or legisla-

tive body may determine, and such Council or legislative body may reject any or all bids.

Sec. 11. The City Council or legislative body of the municipality may, by resolution, if it deem the same necessary, require the Treasurer of the municipality to give additional bonds for the safe custody and care of public funds derived under this Act.

Sec. 12. The provisions of this Act are intended to be paramount and controlling as to all matters provided for therein and as to all questions arising in or out of procedure thereunder.

Sec. 13. This Act shall take effect from and after the time of its passage.

An Act to provide for changing the boundaries of cities and municipal corporations, and to exclude territory therefrom.

[Approved March 19, 1889; 1889, 356.]

Municipal boundaries—How changed.

Section 1. The boundaries of any city or municipal corporation may be altered and territory excluded therefrom after proceedings had as required in this section. The council, board of trustees, or other legislative body of such corporation shall, upon receiving a petition therefor, signed by not less than one-fifth of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation the question whether such territory as is proposed by such petition shall be excluded from such municipal corporation, and cease to be a part thereof. Such question shall be submitted at a special election to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed and published in such corporation, or if there is no newspaper published in said corporation, then in some newspaper published in the county in which said corporation is situated, for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, and shall designate specifically the boundaries of the territory so proposed to be excluded, and the electors shall be invited thereby to vote upon

such proposition by placing upon their ballots the words, "For exclusion," or "Against exclusion," or words equivalent thereto. Such legislative body shall also designate the place or places at which the polls will be opened in such territory so proposed to be excluded, which place or places shall be that or those usually used for that purpose within such territory, if any such there be, and for the purposes of this act, the qualified electors residing in the territory proposed to be excluded shall be entitled to vote at the polls in such territory, and not elsewhere. Such legislative body shall also appoint and designate in such notice the names of the officers of election. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in such territory so proposed to be excluded shall be canvassed separately, and if it shall appear on such canvass that a majority of all the votes cast in such territory and a majority of all the votes in such corporation shall be for exclusion, such legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote, which abstract shall show the whole number of electors voting in such territory, the whole number of electors voting in such corporation, exclusive of such territory, the number of votes cast in each for exclusion, and the whole number of votes cast in each against exclusion. From and after the date of filing such abstract, such exclusion of such territory from such municipal corporation shall be deemed complete, and thereafter such territory shall cease to be a part of such municipal corporation; provided, that nothing contained in this act shall be held to relieve, in any manner whatsoever, any part of such territory from any liability for any debt contracted by such municipal corporation prior to such exclusion; and provided further, that such municipal corporation is hereby authorized to levy and collect from any territory so excluded, from time to time, such sums of money as shall be found due from it on account of its just proportion of liability for any payment on the princi-

pal or interest of such debts; such assessment and collection shall be made in the same manner and at the same time that such assessment and collection is levied and made upon the property of such municipal corporation for any payment on account of such debts; and provided further, that any such territory so excluded from any municipal corporation may at any time tender to the legislative body of such municipal corporation the amount for which such territory is liable on account of such debts, and, after such tender is made, such authority as is herein given municipal corporations to levy and assess taxes on such excluded territory shall cease.

#### Rejection of application.

Sec. 2. Whenever any application for expulsion or separation of territory shall be made, and proceedings thereon be had pursuant to the provisions of this act, and separation or exclusion shall be denied, refused, or rejected, then and in such event, if any person or persons, or corporation, previous to such application, and believing the same to be separate and distinct from the city or municipality where such application is made, shall have paid, laid out, or expended moneys in the construction and establishment of sewers, streets, or parks, or either of them, within the territory which applied for separation or exclusion, such person, persons, or corporation shall be entitled, immediately after such denial, refusal, or rejection, to maintain an action of an equitable nature in the superior court in the county where such application was made, against the city or municipality where such application was made, to recover against such city or municipality, the value of such improvements and expenses so incurred to be determined by three referees, to be appointed by said court, and a judgment entered for the amount thereof against such city or municipality in favor of the person, persons, or corporation entitled to maintain such action hereunder.

Sec. 3. This act shall take effect and be in force from and after its passage.



An Act to provide for the alteration of the boundaries of and for the annexation of territory to incorporated towns and cities, and for the incorporation of such annexed territory in and as a part of such municipalities, and for the districting, government, and municipal control of annexed territory.

[Approved March 19, 1889; 1889, 358.]

Alteration of boundaries of incorporated towns or cities.

Section 1. The boundaries of any incorporated town or city, whether heretofore or hereafter formed, incorporated, reincorporated, organized, or reorganized, may be altered, and new territory annexed thereto, incorporated and included therein, and made a part thereof, upon proceedings being had and taken as in this act provided. The council, board of trustees, or other legislative body of any such municipal corporation, upon receiving a written petition therefor containing a description of the new territory asked to be annexed to such corporation, and signed by not less than one-fifth in number of the qualified electors of such municipal corporation, computed upon the number of votes cast at the last general municipal election held therein, must, without delay, submit to the electors of such municipal corporation, and to the electors residing in the territory proposed by such petition to be annexed to such corporation, the question whether such new territory shall be annexed to, incorporated in, and made a part of such municipal corporation. Such question shall be submitted at a special election to be held for that purpose, and no other; and such legislative body is hereby empowered to, and it shall be its duty to, cause notice to be given of such election by the publication of a notice thereof in a newspaper printed and published in such municipal corporation, and also in a newspaper, if any such there be, printed and published outside of such corporation, but in the county in which the territory so proposed to be annexed is situated, in each case at least once a week for a period of four successive weeks next preceding the date of such election.

Such notice shall distinctly state the proposition to be submitted, i. e., that it is proposed to annex to, incorporate in, and make a part of such municipal corporation the territory sought to be annexed, specifically describing the boundaries thereof; and in said notice the qualified electors of said municipal corporation, and the qualified electors residing in said territory so proposed to be annexed, shall be invited to vote upon such proposition by placing upon their ballots the words "For annexation" or "Against annexation," or words equivalent thereto. Such legislative body is hereby empowered, and it shall be its duty, to establish, and in such notice of election designate the voting precinct or precincts, and the place or places at which the polls will be opened in such territory so proposed to be annexed, and also in such municipal corporation. And such place or places shall be that or those commonly used as voting-places within such municipal corporation, and also that or those commonly used within such new territory, if any such there be. Such legislative body is empowered to, and it shall, appoint the officers of such election, who shall be, for each voting-place in such municipal corporation, and for such voting-place in said new territory, two judges and one inspector, each of whom shall be a qualified elector of the voting precinct in which he is appointed to act as an officer of such election. The ballots used at such election, the opening and closing of the polls, and the holding and conducting of such election, shall be in conformity, as far as may be, with the general laws of this state concerning elections; and the judges and inspectors of such election shall immediately on the closing of the polls, count the ballots, make up and certify the tally-sheets of the ballots cast at their respective polling-places, seal, and then immediately return the same as below provided, doing so, as nearly as practicable, in the manner provided in the election laws of this state; but the ballots, tally-sheets, and returns shall be so returned to and deposited with the clerk of such legislative body. Such legislative body shall, at the time provided for its regular meeting next after the expiration of three days from and after the date of said election, meet and proceed to open and canvass said ballots, tally-sheets, and returns;

and such canvass shall be completed at such meeting, if practicable, and in any event, as soon as practicable, avoiding adjournment or adjournments, if possible, until said canvass is completed. Such canvass by such legislative body shall be conducted and completed as follows: The ballots cast in such outside territory so proposed to be annexed, together with the tally-sheets and returns belonging therewith, shall be canvassed separately; and the ballots cast inside of said municipal corporation, together with their tally-sheets and returns, shall be canvassed separately. Immediately upon the completion of such canvass said legislative body shall cause a record thereof to be made and entered upon its minutes, showing the whole number of ballots cast in such outside territory, the whole number of ballots cast in such municipal corporation, the number thereof cast in each in favor of annexation, and the number thereof cast in each against annexation; and if it shall appear from such canvass that a majority of all the ballots cast in such outside territory, and a majority of all the ballots cast inside of said municipal corporation, are in favor of annexation, the clerk, or other officer performing the duties of clerk, of such legislative body, shall promptly make and certify, under the seal of said municipal corporation, and transmit to the secretary of state, a copy of said record so entered upon said minutes, together with a statement showing the date of said election and the time and result of said canvass, which document shall be filed by the secretary of state immediately upon the receipt thereof. From and after the date of the filing of said document in the office of the secretary of state, the annexation of such territory so proposed to be annexed shall be deemed and shall be complete, and thenceforth such annexed territory shall be, to all intents and purposes, a part of such municipal corporation, except only that no property within such annexed territory shall ever be taxed to pay any portion of any indebtedness or liability of such municipal corporation contracted prior to or existing at the time of such annexation. No territory which, at the time such petition for such proposed annexation is presented to such legislative body, forms any part of any incorporated town

or city, shall be annexed under the provisions of this act.

Altering boundaries of wards.

Sec. 2. The legislative body of any incorporated town or city which is or shall be divided into wards, and to which territory has been heretofore or shall be hereafter annexed, must by ordinance either so alter the boundaries of the wards of such municipal corporation as to include such annexed territory in one or more wards adjoining such annexed territory, or make of such annexed territory one or more additional wards; provided, that the number of wards shall not be so increased as to exceed the number which such municipal corporation may according to law have. In altering the boundaries of wards, or creating new wards, regard must be had to the number of inhabitants, so that each ward shall contain, as near as may be, an equal number of inhabitants, exclusive of persons incapable of citizenship in this state.

Sec. 3. Nothing in this act provided for shall alter or affect the boundaries of any senatorial or assembly district.

Expenses, how, paid.

Sec. 4. All proper expenses of proceedings for annexation of territory under this act, whether such annexation shall be made and completed or not, shall be paid by the municipal corporation so annexing or attempting to annex such territory.

Sec. 5. This act shall take effect and be in force from and after its approval.

There was also passed at the same session the following act:—

An act to provide for changing the boundaries of cities and municipal corporations, and to exclude territory therefrom.

[Approved March 20, 1889; 1889, 433.]

Exclusion of territory and changing boundaries of municipal corporations.

Sec. 1. The boundaries of any city or municipal corporation may be altered, and territory excluded therefrom, after proceeding had, as re-

quired in this section. The council, board of trustees, or other legislative body of such corporation, shall, upon receiving a petition therefor, signed by not less than one fifth of the qualified electors thereof, as shown by the vote cast at the last municipal election held therein, submit to the electors of such corporation the question whether such territory as is proposed by such petition shall be excluded from such municipal corporation and cease to be a part thereof. Such question shall be submitted at a special election to be held for that purpose, and such legislative body shall give notice thereof by publication in a newspaper printed and published in such corporation for a period of four weeks prior to such election. Such notice shall distinctly state the proposition to be so submitted, and shall designate specifically the boundaries of the territory so proposed to be excluded. And the electors shall be invited thereby to vote upon such proposition by placing upon their ballots the words "For exclusion" or "Against exclusion," or words equivalent thereto; such legislative body shall also designate the place or places at which the polls will be opened in such territory so proposed to be excluded, which place or places shall be that or those usually used for that purpose within such territory, if any such there be, and for the purposes of this act, the qualified electors residing in the territory proposed to be excluded shall be entitled to vote at the polls in such territory, and not elsewhere. Such legislative body shall also appoint and designate in such notice the names of the officers of election. Such legislative body shall meet on the Monday next succeeding the day of such election, and proceed to canvass the votes cast thereat. The votes cast in each territory so proposed to be excluded shall be canvassed separately, and if it shall appear on such canvass that a majority of all the votes cast in such territory, and a majority of all the votes in such corporation, shall be for exclusion, such legislative body shall, by an order entered upon their minutes, cause their clerk, or other officer performing the duties of clerk, to make and transmit to the secretary of state a certified abstract of such vote, which abstract shall show the whole number

of electors voting in such territory, the whole number of electors voting in such corporation exclusive of such territory, the number of votes cast in each for exclusion, and the whole number of votes cast in each against exclusion. From and after the date of filing such abstract, such exclusion of such territory from such municipal corporation shall be deemed complete, and thereafter such territory shall cease to be a part of such municipal corporation; provided, that nothing contained in this act shall be held to relieve in any manner whatsoever any part of such territory from any liability for any debt contracted by such municipal corporation prior to such exclusion: and provided further, that such municipal corporation is hereby authorized to levy and collect from any territory so excluded, from time to time, such sums of money as shall be found due from it on account of its just proportion of liability for any payment on the principal or interest of such debts. Such assessment and collection shall be made in the same manner and at the same time that such assessment and collection is levied and made upon the property of such municipal corporation for any payment on account of such debts; and provided further, that any such territory so excluded from any municipal corporation may at any time tender to the legislative body of such municipal corporation the amount for which such territory is liable on account of such debts, and after such tender is made, such authority as is herein given municipal corporations to levy and assess taxes on such excluded territory shall cease.

Sec. 2. This act shall take effect and be in force from and after its passage.

An act providing for the adjustment, settlement, and payment of any indebtedness existing against any city or municipal corporation at the time of exclusion of territory therefrom, and the division of the property thereof.

[Approved March 25, 1893; Stats. 1893, p. 536.]

Sec. 1. That where any territory has been or shall be excluded from any city or municipal cor-



poration, the superior court of the county in which such city or municipal corporation is situate shall, upon a verified petition of any ten tax-payers residing in such city or municipal corporation, or in the territory excluded, made for the purpose of adjusting the amount of the indebtedness of such city or municipal corporation existing at the time of the exclusion of such territory due from the excluded territory, and stating the facts of such exclusion and the amount of such indebtedness, cause notice to be given by publication thereof in a newspaper published in such city or municipal corporation, or in a newspaper published in the county in which such city or municipal corporation is situated, for ten days, stating the substance of such petition, and the time and place that the same shall be heard by said superior court, which time of hearing shall be at least fifteen days after the filing of such petition, or at any time thereafter to which such hearing may be continued by the court.

Any person, corporation, or tax-payer interested in such city or municipal corporation, or in such excluded territory, or in the adjustment and settlement of such indebtedness, may demur to or answer said petition. The rules of pleading and practice provided by the Code of Civil Procedure which are not in conflict with the provisions of this act, are hereby made applicable to the special proceedings herein provided for. The persons so demurring or answering said petition shall be the defendants to said special proceedings, and the signers of the petition shall be the plaintiffs.

Upon the hearing of such special proceedings, the court shall have power to determine the amount due from such excluded territory to the city or municipal corporation from which it was excluded as its proportion of the indebtedness of such city or municipal corporation existing at the time such territory was excluded. In fixing the amount due from such excluded territory, the said court must ascertain and find the purposes for which the said indebtedness was created; the manner and place in which the proceeds of said indebtedness were expended; the value of the property belonging to the said city or municipal corporation at the time of such exclusion; the as-

sessed value of the property situate in said city or municipal corporation at the time the city assessment was made immediately preceding such exclusion, and the assessed value of the excluded territory as shown by such city assessment. If the value of the property belonging to said city or municipal corporation, and which remains within the boundaries thereof after such exclusion, should exceed the value of city or municipal property situated in such excluded territory, and also exceed the pro rata portion of the indebtedness of the city or municipal corporation due from such excluded territory as shown by said assessment, the court shall find and adjudge that there is nothing due from such excluded territory. After such finding is made, and judgment rendered by the court, such excluded territory shall not be subject to the payment of any such indebtedness, and all property belonging to such city or municipal corporation remaining within its boundaries shall belong exclusively to it.

If the court finds, after deducting the value of the city or municipal property from the value of that in the excluded territory, and the pro rata portion of the indebtedness to be borne by such excluded territory, a balance due from such excluded territory, it shall render judgment accordingly, and the amount of such judgment shall be collected and paid in the same manner and at the same time that the assessment is levied for, and the collection of the annual municipal taxes is made upon the property remaining in such city or municipal corporation for any payment on account of such indebtedness; provided, however, that any such territory excluded from any city or municipal corporation may, at any time, tender to the legislative body of such city or municipal corporation the amount for which such excluded territory is liable on account of such indebtedness, and after such tender is made the authority of such city or municipal corporation to levy and assess taxes on such excluded territory shall forever cease.

Sec. 2. This act shall take effect and be in force from and after its passage.

An Act to enable the board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town, to obtain data and information, from any corporation, company, or person supplying water to such city and county, city, or town, requiring such boards, town council, or other legislative body to perform the duties prescribed by section one of article fourteen of the constitution, and prescribing penalties for the non-performance of such duties.

[Approved March 7, 1881; Stats. 1881, p. 54.]

See this act, post, title, Water Companies.

An Act to authorize municipal corporations of the fifth class, containing more than three thousand and less than ten thousand inhabitants, to obtain public water-works.

[Approved March 9, 1885; 1885, 42.]

This act was repealed by an act approved March 19, 1889; Stats. 1889, p. 399. See, also, the statutes of 1891, p. 84.

An act to ratify and confirm the conveyance of certain property to trustees for charitable or educational purposes by the city council or trustees of any city of less than fifty thousand inhabitants, or of any incorporated town.

[Approved March 8, 1889; 1889, 94.]

Confirming conveyance of property for charitable or educational purposes.

Section 1. Whenever the city council or trustees of any city of less than fifty thousand inhabitants, or of any incorporated town, has by deed of trust conveyed property, or any portion thereof, that has been set apart for a public park, to trustees, for charitable or educational uses, such conveyance is hereby ratified and confirmed; pro-

vided, that no institution now existing or to be established on such property shall be private in its benefits, or sectarian in its work or teachings, or be to any extent under the management or control of or in any way tributary to any religious creed or order, church, or sectarian denomination whatsoever; provided further, that land so conveyed shall be kept open as public grounds by the trustees of such institutions as are or may be placed thereon, and that the public visitation of such grounds shall not be restricted, excepting by such reasonable regulations as park property and the proper maintenance of such institutions may require; provided further, that property so conveyed shall revert to the grantors, whenever and so far as the grantees do not use the same in accordance with the stipulations of the deed of trust and with the requirements of this statute.

Sec. 2. This act shall take effect immediately.

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## TITLE 192.

### NAPA COUNTY.

A reference to county special laws relating to Napa is contained in Deering's Annotated Penal Code, pp. 641 and 642.

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## TITLE 193.

### NATIONAL GUARD.

Acts relating to: See Political Code, Appendix, title, National Guard, p. 1046.

TITLE 194.

NAVAL BATTALION.

Acts relating to: See Political Code, Appendix, title, Naval Battalion, p. 1047.

TITLE 195.

NEVADA COUNTY.

A reference to special laws relating to Nevada county is contained in Deering's Annotated Penal Code, pp. 642-644.

See also "An act authorizing incorporated cities to acquire, by gift, purchase or condemnation proceedings, water, water-rights, reservoir sites, rights of way, and other appliances for supplying such cities and their inhabitants with water." [Approved March 14, 1891, Stats. 1891, p. 102.]

TITLE 196.

NORMAL SCHOOLS.

Acts relating to: See Political Code, Appendix, title, Normal Schools.

TITLE 197.

NOTARIES.

Act relating to: See Political Code, Appendix, title, Notaries, p. 1050.

TITLE 198.

OFFICERS.

Acts relating to: See Penal Code, Appendix, title, Officers, p. 586; Political Code, Appendix, title, Officers, p. 1051.

## TITLE 199.

## OLEOMARGARINE.

Acts relating to: See Penal Code, Appendix, title, Oleomargarine, p. 587.

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## TITLE 200.

## OLIVE OIL.

Act regulating sale of imitation: See Penal Code, Appendix, title, Olive Oil, p. 590.

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## TITLE 201

## ORANGE COUNTY.

An Act to create the county of Orange, to define the boundaries thereof, to determine the county seat by an election, and to provide for its organization and election of officers, and to classify said county.

[Approved March 11, 1889; 1889, 123.]

Consult the statutes of 1889 for the act.

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## TITLE 202.

## ORDINANCES.

An Act to require ordinances and resolutions passed by the City Council or other legislative body of any municipality to be presented to the Mayor or other chief executive officer of such municipality for his approval.

[Stat. approved March 27, 1897. Stats. 1897, chap-cxxix.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:  
Section 1. Every ordinance and every resolution of the City Council of any municipality pro-



viding for any specific improvement, or the granting of any franchise, or other privilege, or affecting real property interests, or the expenditure of more than one hundred dollars of the public moneys, or levying tax or assessment, or establishing rates for artificial light, and every ordinance or resolution imposing a duty or penalty, which shall have passed the City Council, shall, before it takes effect, be presented to the Mayor for his approval. The Mayor shall return such ordinance or resolution to the City Council within ten days after receiving it. If he approve it he shall sign it, and it shall then take effect. If he disapprove it he shall specify his objections thereto in writing. If he do not return it with such disapproval within the time above specified, it shall take effect as if he had approved it. The objections of the Mayor shall be entered at large on the journal of the City Council, and the City Council shall cause the same to be immediately published. The City Council shall, after five, and within thirty days after such ordinance or resolution shall have been returned with the Mayor's disapproval, reconsider and vote upon the same; and if the same shall, upon reconsideration, be again passed by the affirmative vote of not less than three-fourths of all the members, the presiding officer shall certify that fact on the ordinance or resolution, and when so certified, it shall take effect as if it had received the approval of the Mayor; but if the ordinance or resolution shall fail to receive upon the first vote thereon after its return with the Mayor's disapproval, the affirmative votes of three-fourths of all the members, it shall be deemed finally lost. The vote on such reconsideration shall be taken by ayes and noes, and the names of the members voting for or against the same shall be entered in the journal; provided, that the provisions of this section shall not apply to cities in which the Mayor is a member of the City Council, or other governing body.

Sec. 2. The word "municipality," and the word "city," as used in this Act, shall be understood and so construed as to include, and is hereby declared to include; all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes.

Sec. 3. The term "City Council" is hereby de-

clared to include any body or board which, under the law, is the legislative department of the government of any city.

Sec. 4. In municipalities in which there is no Mayor, then the duties imposed upon said officer by the provisions of this Act shall be performed by the President of the Board of Trustees, or other chief executive officer of the municipality.

Sec. 5. This Act shall take effect and be in force from and after its passage, and all Acts and parts of Acts in conflict with this Act are hereby repealed.

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## TITLE 203.

### ORPHANS.

Acts relating to: See Civil Code, Appendix, title, Infancy, p. 775 et seq. Consult, also, the following acts:

An act to appropriate funds for the relief of the several orphan asylums of this state. [Approved April, 1872; Stats. 1871-2, p. 644.]

An act to appropriate money for the support of orphans, half-orphans, and abandoned children. [Approved March 25, 1880; 1880, 13 (Ban. ed. 48).]

These acts appropriated under certain limitations from the general funds a sum at a certain rate per child for each child maintained in institutions.

They have not been repealed, but Governor Budd vetoed an appropriation under it in 1895, Statutes 1895, p. 290, and no appropriation was made under it in 1897.

An act in relation to the care of orphan and abandoned children. [Approved March 7, 1874; 1873-4, 297.]

An act to authorize managers of orphan asylums to give their consent to the adoption of certain children under their care. [Approved April 1, 1878; 1877-8, 963.]

## TITLE 204.

## OYSTERS.

The Political Code, section 19, and the Penal Code, section 23, expressly continued in force an act concerning oysters, passed April 28, 1851, 432, and an act concerning oyster beds, approved April 2, 1866, 1865-6, 848; but both those acts were repealed by the following act, which is now in force:

An act to encourage the planting and cultivation of oysters. [Approved March 30, 1874; 1873-4, 940.]

The object of the act sufficiently appears in the title.

## TITLE 205.

## PHARMACY.

An act to regulate the practice of pharmacy and sale of poisons in the state of California.

[Approved March 11, 1891; Stats. 1891, p. 86.]

Section 1. From and after the first day of January, A. D. eighteen hundred and ninety-two, it shall be unlawful for any person to conduct any pharmacy or store for dispensing or compounding medicines, unless such person be a registered pharmacist, within the meaning of this act; and it shall be unlawful for any person to compound or dispense any physician's prescription, unless such person be a registered pharmacist or a registered assistant pharmacist, within the meaning of this act, except as hereinafter provided.

Sec. 2. Any person, in order to be a registered pharmacist, must be a graduate of pharmacy, a licentiate in pharmacy, or a practicing pharmacist.

Sec. 3. Graduates in pharmacy are persons who have had four years' experience in stores where the prescriptions of medical practitioners are compounded, and each must have obtained a diploma from a legally constituted college of pharmacy.

Licentiates in pharmacy are persons who have had four years' experience in stores where the prescriptions of medical practitioners are compounded, and shall have passed an examination before the state board of pharmacy, or who shall present satisfactory credentials or certificates of their attainments to the said board. Practicing pharmacists are persons who, at the passage of this act, are conducting pharmacies in this state for compounding and dispensing of prescriptions of medical practitioners, and for the sale of medicines and poisons. Assistant pharmacists are persons of not less than eighteen years of age who are employed by registered pharmacists, have studied the art of pharmacy for two years, and have passed an examination by the board of pharmacy, or who, prior to the passage of this act, have had three years' experience in pharmacies.

Sec. 4. Every pharmacist claiming the right of registration under this act shall, on or before the first day of January next after its passage, forward to the board of pharmacy satisfactory proof that he was engaged in the business of preparing and dispensing medicines and physicians' prescriptions at the time of passage of this act, or that he is otherwise entitled to registration under its provisions. The board of pharmacy shall then issue to said applicant, upon his paying the sum of five dollars, a certificate of registration. Any practicing pharmacist failing to comply with the requirements of this section within sixty days from and after the first day of January, eighteen hundred and ninety-two, shall forfeit his right to registration, and shall appear for examination, as provided for in this act.

Sec. 5. Every assistant pharmacist claiming right of registration under this act, without passing an examination by the board of pharmacy, shall, on or before the first day of January next after the passage, forward to the board of pharmacy satisfactory proof that he has had three years' experience in drug stores where physicians' prescriptions are prepared; the board of pharmacy shall then issue to said applicant, upon his paying the sum of one dollar, a certificate of registration as assistant pharmacist. Any assistant failing to comply with the requirements of this section, within sixty days from and after the first

day of January, eighteen hundred and ninety-two, shall forfeit his right to registration, without passing the examination provided for in this act. No registered assistant shall conduct a pharmacy or be granted a certificate as a registered pharmacist until he has passed the examination for licentiate in pharmacy, as required by this act.

Sec. 6. Within thirty days after the passage of this act, and every fourth year thereafter, the governor shall appoint seven competent pharmacists, residing in different parts of the state, to serve as a board of pharmacy. The members of this board shall, within thirty days after their appointment, individually take and subscribe, before the county clerk in the county in which they individually reside, an oath faithfully and impartially to discharge the duties prescribed by this act. They shall hold office for the term of four years, and until their successors are appointed and qualified. In case of vacancy in the board of pharmacy, the governor shall fill the same by appointing a member to serve for the remainder of the term only. The office of said board shall be located in San Francisco. The board shall organize by electing a president and a secretary, the latter to be ex officio treasurer of the board. Four members of the board shall constitute a quorum. They shall meet at least quarterly, and have power to make by-laws for the proper fulfillment of their duties. The duties of the board shall be to transact all business pertaining to the legal regulations of the practice of pharmacy; to investigate all complaints respecting non-compliance with the violations of the provisions of this act, and to bring the same to the notice of the proper prosecuting officer, whenever there appears to the board to be reasonable grounds for such action; and to examine and register as pharmacists, or assistant pharmacists, all applicants whom it shall deem qualified to be such, respectively. All persons, on applying for examination or registration, shall pay to the secretary a fee of five dollars for licentiate, and two dollars for assistants; and on passing the examination they shall be furnished with a certificate signed by the secretary and examiners. In case of failure to pass, the board shall grant a second examination within one year without any additional fee being charged. Every registered

pharmacist who desires to continue the practice of his profession in this state shall, annually, on such date as the board of pharmacy may determine, pay to the secretary of the said board a registration fee, to be fixed by the board, but which shall in no case exceed the sum of two dollars per annum, for which he shall receive a renewal of said registration. Every registered assistant pharmacist who desires to continue the practice of his profession in this state shall, annually, on such date as the board of pharmacy may determine, pay to the secretary of said board a registration fee, to be fixed by the board, but which shall in no case exceed the sum of one dollar per annum, for which he shall receive a renewal of said registration. The board shall render an annual report of its proceedings to the governor of the state. [Amendment approved March 3, 1893; Stats. 1893, p. 68.]

Sec. 7. It shall be the duty of the secretary to keep a book of registration open at the city of San Francisco, of which due notice shall be given through the public press or by mail, in which book shall be entered, under the supervision of the board, the names, titles, qualifications, and places of business of all persons coming under the provisions of this act. The secretary shall give receipts for all money received by him, and disburse the same by order of the board for necessary expenses, taking proper vouchers therefor. The balance of said moneys, after paying the expenses of the board, he shall pay to the state treasurer, who shall keep it as a special fund to be used in carrying out the provisions of this act.

Sec. 8. The members of the board of pharmacy shall each be paid the sum of five dollars per diem for every meeting of the board which they attend, and the secretary shall receive such additional compensation as the board may direct. All compensation of members and other expenses of the board of pharmacy shall be paid out of the examination and registration fees and fines.

Sec. 9. No person shall add to or remove from, or cause to be added to or removed from, any drug, chemical, or medicinal preparation, any ingredient or material for the purpose of adulteration or substitution, or which shall deteriorate the quality, commercial value, or medicinal effect, or



alter the nature or composition of such article; and no person shall knowingly sell, or offer for sale, any such adulterated, altered or substituted drug, chemical, or medicinal preparation, without informing the purchaser of the adulteration or sophistication of the article sold or offered for sale. Every registered pharmacist shall file or cause to be filed all physicians' prescriptions compounded or dispensed in his pharmacy or store; they shall be preserved for two years, and he shall furnish a correct copy of any prescription, upon the order or request of the attending physician. Any person who shall willfully violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to all costs of the action, and for the first offense be liable to a fine not exceeding fifty dollars, and for each subsequent offense a fine of not less than fifty nor more than one hundred dollars, said fines to be paid over to the board of pharmacy. On written complaint being entered against any person or persons, charging them with specific violation of any of the provisions of this act, the board of pharmacy is hereby empowered to delegate one of its members, or other suitable person, who shall have authority to inspect drugs, chemicals, or medicines, and to make a thorough investigation of the case; he shall then report the result of his investigation, and if such report justify such action the board shall notify the prosecuting attorney or district attorney, who shall prosecute the offender according to law.

Sec. 10. It shall be unlawful for any person to retail any poisons enumerated in schedules "A" and "B," appended to this act, without labeling the box, bottle, or paper in which said poison is contained with the name of the article, the word "Poison," and the name and place of business of the seller. Nor shall it be lawful to sell or deliver any poison named in schedules "A" and "B," unless, on inquiry, it is found that the person is aware of its poisonous character, and that it is to be used for a legitimate purpose. Nor shall it be lawful to sell or deliver any poison included in schedule "A" without making, or causing to be made, an entry in a book kept for that purpose only, stating the date of sale, and the name and

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address of purchaser, the name and quantity of the poison sold, the purpose for which it is stated by the purchaser to be required, and the name of the dispenser; said book to always be open for inspection by the proper authorities, and to be preserved for at least five years. The provisions of this section shall not apply to the dispensing of poisons when prescribed by practitioners of medicine, nor to the sale of poisons, if a single bottle or package does not contain more than an ordinary dose. Dealers shall affix to every bottle, box, parcel, or other inclosure of an original package containing any of the articles named in schedules "A" and "B" of this act, a suitable label or brand with the word "Poison," but they are hereby exempted from the registration of the sale of such articles when sold at wholesale, or to a registered pharmacist or physician. Any person failing to comply with the requirements of this section shall be guilty of misdemeanor, and upon conviction shall be liable to a fine not exceeding fifty dollars.

Sec. 11. Any person that shall attempt to procure registration for himself, or for any other person under this act, by making, or causing to be made, any false representations, or who shall fraudulently represent himself to be registered, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in a sum not exceeding two hundred dollars. Any registered pharmacist who shall permit the compounding and dispensing of prescriptions of medical practitioners in his store by persons not registered, except by junior assistants under the direct supervision of registered persons, or any person not registered who shall retail medicines or poisons, except in a pharmacy under the supervision of a registered pharmacist or a registered assistant pharmacist, and any registered person who shall fail to comply with the regulations of this act, shall be guilty of a misdemeanor, and upon conviction thereof be fined not exceeding fifty dollars. Nothing in this act shall apply to or interfere with the business of any practitioner of medicine who does not keep a pharmacy or open shop for the retailing of medicines or poisons, nor with the exclusive wholesale business of any dealer, except that portion of section ten which relates to marking or labeling certain poisons mentioned in this

act. Nor shall general dealers come under the provisions of this act, in so far as it relates to the keeping for sale of proprietary medicines in original packages of drugs and medicines; but in no case shall they compound or prepare any pharmaceutical preparations or prescriptions.

Sec. 12. All persons registered under this act shall be exempt and free from jury duty.

#### SCHEDULE "A."

Arsenic, corrosive sublimate, cyanide of potassium, hydrocyanic acid, strychnia, cocaine, and all other poisonous vegetable alkaloids and their salts, opium, and all its preparations, excepting those which contain less than two grains to the ounce.

#### SCHEDULE "B."

Aconite, belladonna, colchicum, conium, nuxvomica, savin, cantharides, phosphorus, digitalis, and their pharmaceutical preparations, croton oil, chloroform, chloral, sulphate of zinc, sugar of lead, mineral acids, carbolic acid, and oxalic acid, white precipitate, red precipitate, biniodide of mercury, essential oil of almonds.

All acts or parts of acts which conflict with this are hereby repealed.

Poisons: See Post, title, Poisons.

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### TITLE 206.

#### PILOTS.

Acts relating to: See Political Code, Appendix, title, Pilots, p. 1058.

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### TITLE 207.

#### PLACER COUNTY.

A reference to special acts relating to Placer county is contained in Deering's Annotated Penal Code, pp. 650 and 651.

See, also, an act authorizing the trustees of Auburn to remove a cemetery and donate the land for a park, approved March 26, 1895; Stats. 1895, p. 109.

## TITLE 208.

### PLUMAS COUNTY.

A reference to special acts relating to Plumas county is contained in Deering's Annotated Penal Code, pp. 651 and 652.

## TITLE 209.

### POISONS.

Act regulating sale of: See ante, title, Pharmacy; the former act was an act to regulate the sale of certain poisonous substances. [Approved April 16, 1880; 1880, 102 (Ban. ed. 341).]

For other acts relating to Poisons see Penal Code, Appendix, title Poisons, p. 593.

## TITLE 210.

### POLICE.

Acts relating to: See Penal Code, Appendix, title Police, p. 595.

## TITLE 211.

### POLICE COURTS.

An Act to establish a police court in and for the city of Marysville.

[Approved March 16, 1889; 1889, 214.]

An Act to provide for police courts in cities having fifteen thousand and under eighteen thousand inhabitants.

[Approved March 31, 1891; Stats. 1891; p. 433.]

This act was declared unconstitutional in Giambonini, ex parte, decided July 16, 1897.

An Act to create a police court in and for the city and county of San Francisco, state of California.

[Approved March 5, 1889; 1889, 62.]

An act amendatory of and supplemental to an act entitled "An act to create a police court in and for the city and county of San Francisco, state of California," approved March 5, 1889, and providing for an additional department, to be known as department number four, and the appointment of a suitable person to act as judge of said court.

[Approved February 23, 1893; Stats. 1893, p. 9.]

An act to create an additional police judge's court for the city and county of San Francisco, to define its powers and jurisdiction.

[Approved March 7, 1881; Stats. 1881, 74.]

An act to provide for police courts in cities having thirty thousand and under one hundred thousand inhabitants, and to provide for officers thereof.

[Approved March 18, 1885; 1885, 213.]

This act was amended March 31, 1891; Stats. 1891, p. 252; February 27, 1893; Stats. 1893, p. 41; and March 6, 1895; Stats. 1895, p. 113.

An act establishing a police court in Eureka.  
[Approved March 26, 1895; Stats. 1895, p. 90.]

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## TITLE 212.

### POLICE DEPARTMENT.

Acts relating to: See Political Code, Appendix, title, Police Department, p. 1058.

— J. F. Martin

## TITLE 213.

## PREDACEOUS INSECTS.

An act to appropriate five thousand dollars for the purpose of sending an expert to Australia, New Zealand, and adjacent countries to collect and import into this state parasites and predaceous insects. [Approved March 31, 1891; Stats. 1891, p. 277.]

The object of the act sufficiently appears from the title.

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## TITLE 214.

## PRIZE FIGHTING.

Act relating to: See Penal Code, Appendix, title, Prize Fighting, p. 606.

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## TITLE 215.

## PROSTITUTION.

Act relating to: See Penal Code, Appendix, title, Prostitution, p. 606.

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## TITLE 216.

## PROTECTION DISTRICTS.

An act to provide for the formation of protection districts in the various counties of this State, for the improvement and rectification of the channels of innavigable streams and water-courses, for the prevention of the overflow thereof, by widening, deepening, and straightening and otherwise improving the same, and to authorize the Boards of Supervisors to levy and collect assessments from the property benefited to pay the expenses of the same.

[Stat. Approved March 27, 1895; Stats. 1895, chap. cci.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. Whenever the Board of Supervisors



of any county in this State may deem it proper to improve and rectify the channel of any innavigable stream or watercourse within the county, and to prevent the overflow of such stream by widening, deepening, or straightening its course, or by erecting levees or dikes upon its banks, the Board may, upon a petition of ten property holders of the district to be affected by such improvements, pass a resolution signifying its intention to improve such innavigable stream or watercourse, describing the exterior boundaries of the district of lands to be affected or benefited by such work or improvement, and to be assessed to pay the damages, cost, and expenses thereof, the character of work or improvement contemplated, and the place where the proposed work or improvement is to be done. Such resolution shall also contain a notice, to be published, which notice shall be headed "Notice of Intention of the Board of Supervisors to form a Protection District," and shall state the fact of the passage of such resolution, with the date thereof, and briefly, the work or improvement proposed, and the statement that it is proposed to assess all property affected or benefited by such improvement for the expenses thereof, and refer to the resolution for further particulars. Such notice to be given by the Board of Supervisors, and signed by its clerk.

Sec. 2. Such notice shall be published for a period of thirty days, in one daily newspaper published and circulated in such county, and designated by said board of supervisors; or if there is no daily newspaper so published and circulated in said county, then by four successive insertions in a weekly or semi-weekly newspaper so published, circulated, and designated.

Sec. 3. Any person interested, objecting to such work or improvement, or to the extent of the district of lands to be affected or benefited by such work or improvement, and to be assessed to pay the costs and expenses thereof, may make written objections to the same within ten days after the expiration of the time of the publication of said notice, which objection shall be delivered to the clerk of said board of supervisors, who shall indorse thereon the date of its reception by him, and at the next regular meeting of such

board of supervisors, or at an adjourned meeting, or a special meeting called for that purpose, after the expiration of said ten days, lay such objections before said board of supervisors, which shall fix a time for hearing said objection, not less than fifteen days thereafter, and direct its clerk to notify each person objecting of such day fixed for hearing, by depositing a notice thereof in the post office at the county seat of such county, postage prepaid, addressed to such person objecting, which said notice shall be deposited in the post office not less than ten days before the day set for hearing.

Sec. 4. At the time specified or to which the hearing may be adjourned, the board of supervisors shall hear the objections urged and pass upon the same. Such board may, in its discretion, sustain, in whole or in part, any or all of the objections made and filed, and may change or alter the boundaries of such district to conform to the needs of the district, and may, in their discretion, declare such protection district formed as a subdivision of such county, and shall designate such district by name as the — Protection District of — County, and thereafter the board of supervisors shall be deemed to have acquired jurisdiction to purchase or receive by donation, in the name of the district, any real or personal property necessary to properly carry out the purposes of the formation of such district, under the same rules as govern the purchase of property in the name of the county; but no district shall be formed wherein a majority of the property holders within its limits protest in writing against such action.

Sec. 5. The board of supervisors of such county shall also have power to condemn land for the purpose of widening, deepening, or straightening any innavigable stream flowing through such protection district, and for that purpose all of the provisions of part three, title seven, of the Code of Civil Procedure are hereby made applicable to the exercise of the right of eminent domain for such purposes, or to any purpose necessary to the needs of such district when formed.

Sec. 6. Having acquired jurisdiction, as provided in section four hereof, the board of supervisors shall cause a survey of said contemplated improvement to be made, or adopt a survey al-

ready made; and a map of the survey must be adopted by such board, and thereafter such survey and map shall be the plans to be followed in making such improvements; provided, that at any time after the adoption of such survey and map, and before any commissioners' report of the assessment of benefits and award of damages has been finally adopted and confirmed by the board of supervisors as provided for by section sixteen of this act, said board of supervisors may rescind their action in adopting such survey and map, and may adopt others in place thereof, or, by the affirmative vote of not less than four-fifths of all its members, said board may abandon its contemplated improvement and disorganize and abolish such protection district, in which case the preliminary expenses already incurred for advertising and surveying shall be a county charge. [Amendment approved March 27, 1897; Stats. 1897, chap. clxiii. In effect immediately.]

Sec. 7. After adopting such survey, the board of supervisors shall appoint three commissioners to assess benefits and damages, to estimate the total cost of making the proposed improvements and performing such proposed work, which estimate shall include all expenses of every kind incurred or to be incurred, either directly or indirectly, in carrying out the said work and improvements. Before entering upon the discharge of their duties as such commissioners, they shall each take and subscribe to an oath to perform the duties of such commission to the best of their abilities, and shall each file, with the clerk of the board of supervisors, a bond to the state of California, in the sum of three thousand dollars, to faithfully perform the duties of his office as such commissioner, which said bond must be approved by the chairman of the board of supervisors. The board of supervisors may, at any time, remove any or all of said commissioners for cause, upon reasonable notice and hearing, and may fill any vacancies occurring among them from any cause.

Sec. 8. The commissioners shall have all powers necessary and proper to carry out the provisions of this act, and the act of a majority shall be the act of the board.

Sec. 9. All such charges and expenses shall be deemed as expenses of said work or improvement,

and be a charge only upon the funds devoted to the particular work or improvement as provided hereafter. All claims, as well for the land and improvements taken or damaged as for the charges and expenses, shall be paid as are other claims against the county and upon order of the board of supervisors, and the claims shall be itemized in the same manner as are other claims against the county.

Sec. 10. Said commissioners shall proceed to view the lands embraced within the boundaries of such protection district, and may examine the witnesses on oath, to be administered by any one of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land and the damage to improvements and property affected, and also the estimated amount of the cost of the proposed work or improvements, and the expenses incident thereto, and having determined the same, shall proceed to assess the same, upon the lands embraced within the exterior boundaries of such protection district. Such assessment shall be made in the manner following, to-wit: The board of supervisors may assess to the county, as an interested and benefited party, such portion of said assessment, not exceeding one-third, as in their judgment they may determine and the remainder of such assessment shall be made upon the lands within said district in proportion to the benefits to be derived from said work or improvement, so far as the said commission can reasonably estimate the same, including in such estimate the property of any railroad company within said district, if such there be.

Sec. 11. Said commissioners, having made their assessment of benefits and damages, shall, with all diligence, make a written report thereof to the board of supervisors, and shall accompany their report with a plat of the district, showing the land taken or to be taken for the work or improvement; and the lands assessed, showing the relative location of each district, block, lot, or portion of lot or other piece of land, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, or other parcel or parcels of land

taken or assessed, shall be designated and described in said plat by an appropriate number, and a reference to it by such descriptive number shall be a sufficient description of it in all respects. When the report and plat are approved by the board of supervisors, a copy of said plat (appropriately designated and certified by the clerk of said board as a correct copy of the plat on file in his office) shall be, by the clerk of said board, recorded in the office of the recorder of the county. Said report of the commissioners shall also contain the names of the persons owning lands taken, or to be taken, for such work or improvement; the names of the land owners who consent to give the right of way, and their written consent thereto; the names of land owners who do not consent, and the amount of damage claimed by each, and the amount of damages awarded to each by the commissioners.

Sec. 12. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening, deepening, or straightening of such innavigable stream, or other improvement made or work done, or assessed therefor, together with the name of the owner or claimants thereof or of persons interested therein as lessees, incumbrancers, or otherwise, so far as the same are known to the commissioners, and the particulars of their interests, so far as the same can be ascertained, and the amount of value or damages or the amount assessed, as the case may be.

Sec. 13. If in any case the commissioners find that conflicting claims of title exist, or shall be in ignorance or doubt as to the ownership of any piece of land or of any improvement thereon, or of any interest in such land or improvement, it shall be set down as belonging to unknown owners. Errors in the designation of the owner or owners of any land or improvement, or of the particulars of their interests, shall not affect the validity of the assessment, or of any condemnation of the property to be taken.

Sec. 14. The commissioners shall receive for their services such compensation as the board of supervisors may determine from time to time: provided, that the compensation shall not exceed the sum of one hundred dollars per month each, nor continue for more than six months, unless

the board of supervisors shall, by order, extend such time. The compensation of the commissioners shall be considered as an expense of the work or improvement, and shall be chargeable and payable as are other expenses thereof.

Sec. 15. The report of such commissioners, and the plat accompanying it, shall be filed with the clerk of the board of supervisors, and thereupon the said clerk shall give notice of such filing by publication for at least ten days, in one daily newspaper published and circulated in said county; or if there be no daily paper, by three successive insertions in a weekly or semi-weekly newspaper so published and circulated. Said notice shall require all persons interested to show cause, if any they have, why such report should not be adopted and confirmed by the board of supervisors, on or before a day fixed by the clerk thereof, and stated in said notice; which day shall not be less than thirty days from the last publication thereof. Such notice shall be substantially in the following form:

Notice of the filing of the report of the board of commissioners of — Protection District.

Notice is hereby given that the board of commissioners of — Protection District did, on the — day of — 189—. file its report of the assessment of benefits and award of damages in said protection district with the clerk of the board of supervisors of — county, which said report is now on file in the office of said board, in the county court house, in the city of —, in said county. Said report is hereby made a part hereof, and is hereby referred to for further particulars. All persons interested are hereby required to show cause, if any they have, why such report should not be adopted and confirmed by such board of supervisors.

All objections to such adoption of such report shall be in writing and signed by the person objecting, giving post office address, and filed with the clerk of said board of supervisors on or before the — day of —, 189—. ————

Clerk of the Board of Supervisors of — County.

Sec. 16. All objections shall be in writing and filed with the clerk of the board of supervisors, who shall, at the next meeting of the board



(whether an adjourned meeting, a regular monthly meeting, or a special meeting called for that purpose) after the day fixed in the notice to show cause, lay the said objections, if any have been filed, before the said board, which shall, by order, fix a time for hearing the same, and direct the clerk to notify the objectors in the manner prescribed in section three hereof. At the time fixed for hearing, or at such other time as the hearing may be adjourned to, the board of supervisors shall hear such objections and pass upon the same; and at such time, or if there be no objections, at the first meeting after the day set in such order to show cause, or such other time as may be fixed, shall proceed to pass upon such report, and may confirm, correct, or modify the same, or may order the commissioners to make a new assessment, report, and plat, which shall be filed, notice given, and hearing had as in the case of an original report. When such report has been adopted and confirmed, the said board may, by order entered upon its minutes, discharge such commissioners, and their authority shall thereupon cease.

Sec. 17. After said report has been adopted as provided in the preceding section, the board of supervisors, if they consider the sum to be raised for the payment of the expenses of such work or improvement too great to be properly expended in one year, or too great to be raised in one year by assessments against the property of such protection district, may, by order entered upon its minutes, provide that any part of such expenses shall be raised or expended in one year, and that such assessments shall continue for a number of years sufficient to raise by assessment, and expend, the total sum required by such report for the work or improvement. When the board has determined the sum to be assessed for each year, and the number of years that such assessment shall continue, they shall cause the clerk of the board of supervisors to forward to the tax collector of the county in which such district is situated, a certified copy of the report, assessment, and plat as adopted and confirmed by the said board of supervisors, together with a certified copy of the order of said board, fixing the sum to be raised by such assessment each year and the number of

years such assessment shall continue, and from and after the filing of such certified copy the charges assessed upon each piece of land or improvement thereon for the first year shall become due and payable immediately and shall constitute a lien thereon; and thereafter the assessments for the succeeding years shall become due and payable on the first day of October of each year, and shall, upon becoming due and payable, constitute a lien upon the land or improvements upon which it is assessed. Before such sums become delinquent, the board of supervisors shall direct the county treasurer to transfer from the money then in the general fund of such county to the fund raised by such assessment, a sum of money to be named in the order, great enough to pay the assessment made against the county for that year for such work and improvements.

Sec. 18. All moneys paid upon such assessments, either by property owners or by the county, and moneys received from any source for the benefit of such protection district, shall be, by the county treasurer, placed in a fund to be called the ——— Protection District Fund; and all payments of any of the expenses of the work or improvements or other expenses of such district shall be made upon warrants drawn by the county auditor upon such fund, and paid by such treasurer.

Sec. 19. Upon the filing of such certified copy of such report, assessment plat, and order with the tax collector of the county, as prescribed in section eighteen hereof, the county tax collector shall give notice, by ten days' publication in a newspaper printed in the county, that the assessment list of ——— Protection District has been filed in his office, with the date of such filing; that the amounts entered thereon are due and payable; that if not paid on or before the first Monday in January next ensuing, the same will become delinquent and will be collected as are delinquent taxes. He shall note on said assessment list all assessments paid, giving receipts as in the payment of taxes, and shall pay all money collected into the county treasury at the same time and in the same manner as money collected for taxes is paid into said treasury. All subsequent collections of assessments shall be made in the

same manner above set forth, and the tax collector shall annually (after the first year), immediately after the first day of October, publish a notice containing all the statements required to be made as hereinbefore in this section set forth, and the same proceedings shall be had as upon the collection of the first assessment.

Sec. 20. When said assessments have become delinquent the tax collector of such county shall proceed to collect such delinquent assessments, with five per cent added thereon, and pay the same, including the five per cent so collected, over to the county treasurer, in the same manner as state and county taxes are collected and paid over; and for the purpose of collecting such assessments and delinquent assessments all of the provisions of chapter seven, title nine, part three, of the Political Code not in conflict with any of the provisions of this act are hereby made applicable to the collection of assessments and delinquent assessments in such protection districts.

Sec. 21. If, at the completion of such work or improvements, there should be, from any cause, a surplus of money left in such Protection District Fund, the board of supervisors may ascertain the pro rata amount belonging to each person paying such assessments, and upon the filing of claims for such rebate properly itemized, shall refund such money to the parties who paid the same; and when all of such money has been refunded, shall, by order, direct the county treasurer to abolish such Protection District Fund.

Sec. 22. When sufficient money is in such Protection District Fund to pay for the property taken and damaged, according to the award of damages made in the report adopted by the board of supervisors, as provided in section seventeen hereof, the clerk of the board of supervisors shall notify the owner, possessor, or occupant of any land or improvement thereon to whom damages shall have been awarded, that such award has been made, and the amount thereof, and that upon such person filing a claim and tendering a conveyance of any property to be taken, such claim will be allowed and such damages paid. Such notice shall be given by depositing such notice in the post office at the county seat of such county, postage prepaid, addressed to such owner, possessor,

or occupant, if his name be known. In case the property is unoccupied, and the name of the owners is unknown, or in case such unoccupied property is set down as belonging to unknown owners for the reasons given in section fourteen hereof, such notice shall be delivered to the sheriff or to a constable, who shall serve the same by posting a copy in a conspicuous place upon the property named in said notice, and indorse a certificate of service upon the original notice, and file the same with the clerk of the board of supervisors.

Sec. 23. Whenever the clerk of the board of supervisors or other officer is, by this act, empowered to serve any notice by mailing, a certificate of such mailing, in conformity to the provisions of this act and filed with the records of such supervisors, shall be sufficient proof of such service.

Sec. 24. If any award of damages is not accepted within fifteen days after the mailing or posting of such notice, it shall be deemed as rejected by the property owner, and thereupon the board of supervisors may direct proceedings to procure the right of way to be instituted, in the name of the county, by the district attorney, under and as provided in title seven, part three, of the Code of Civil Procedure, against all non-accepting property owners; and when thereunder the right of way is procured, the work or improvement must be commenced as hereinafter provided. In such suit no informality in the proceedings of the board of supervisors, or in the proceedings of the commissioners, shall vitiate said suit, but the said order of the board of supervisors, directing the district attorney to bring suit, shall be conclusive proof of the regularity thereof; and the said suit shall be determined by the court or jury in accordance with the rights of the respective parties as shown in court, independent of said proceedings before said board of supervisors or before said commissioners.

Sec. 25. If any right of way, attempted to be acquired by virtue of this act, shall be found to be defective from any cause, the board of supervisors may again institute proceedings to acquire the right of way as in this act provided, or otherwise, or may purchase the same and include the cost thereof in the expenses of such work or improvement.

Sec. 26. The board of supervisors shall determine the amount of work to be done in each year and the place where such work is to be done, and may let a contract for any portion of such work that they may think proper. When the work is let by contract, either as a whole work or for a portion thereof, the board shall give notice, by publication thereof, not less than ten days, in a newspaper published in such county, calling for bids for the construction of such work, or of any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place for opening said proposal, and how such sealed proposals shall be addressed, which, at the time and place appointed, shall be opened, and, as soon thereafter as convenient, the board shall let said work, either in portions or as a whole, to the lowest responsible bidder; or they may reject any and all bids and readvertise for proposals. Any person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said county for the use of such protection district, for double the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the board of supervisors.

Sec. 27. If, according to the survey and map as adopted by the board of supervisors, as provided in section seven hereof, it is necessary, in order to shorten or straighten the course of any innavigable stream, to dig canals, cut off bends, change the channel or course of such stream, or to turn the water from its present channel into a former but now dry channel, then such work shall be considered as the straightening of the channel and course of such innavigable stream, and all of the provisions of this act are hereby declared to be applicable to such work.

Sec. 28. If, at any time, in the opinion of the board of supervisors, the expenditure of money is absolutely necessary to the welfare of such pro-

tection district, and there is no money in the fund of such district to make such necessary expenditure, or the money in such fund is insufficient to make such necessary expenditure, then the board of supervisors may advance such money out of the general fund of the county, and the same shall be a credit to the county as a payment of the assessments against the county to that extent; or if such money advanced shall exceed the assessments against the county, then as soon as there is sufficient money in the fund of such protection district to pay the excess, the board of supervisors shall direct the county treasurer to transfer to the general fund from the fund of such protection district, a sum great enough to balance the accounts.

Sec. 29. The provisions of this act shall be liberally construed to promote the objects thereof.

This act shall take effect and be in force from and after its passage.

The former act for the formation of protection districts may be found in statutes of 1880, p. 55. [Ban. ed. 227.] This act was amended March 19, 1889, Stats. 1889, p. 366.

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## TITLE 217.

### PUBLIC ADMINISTRATOR.

Acts relating to, see Political Code, Appendix, title, Public Administrator, p. 1059.

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## TITLE 218.

### PUBLIC DEBT.

An act to provide for the redemption and payment of certain funded debt bonds of this state, together with interest thereon, making an appropriation therefor, and authorizing the state controller and state treasurer to transfer the sum of one hundred and twenty thousand dollars from the general fund to the interest and sinking fund to carry out the provisions of this act.



This act was approved Feb. 27, 1893, Stats. 1893, p. 49.

An act to provide for the payment of funded indebtedness of the state of California, and to contract a funded debt for that purpose.

[Approved March 31, 1891; Stats. 1891, p. 210.]

The act created a board of commissioners to issue bonds for the purpose indicated and provided for the sale and redemption of the bonds.

An act to provide for the payment of all private claims allowed by the legislature of the thirty-first session, out of the revenues of the forty-seventh fiscal year.

[Approved March 28, 1895; Stats. 1895, chap. ccxx. In effect immediately.]

An act authorizing the common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class to refund its indebtedness, to issue bonds therefor, and to provide for the payment of the same.

[Stat. approved March 9, 1897; Stats. 1897, chap lxxxii.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Sec. 1. The common council, board of trustees, or other governing body of any incorporated city or town other than cities of the first class, in this state, having an outstanding indebtedness, evidenced by bonds or warrants thereof, is empowered, by a two-thirds vote of its number, to fund or refund the same and issue bonds of such city or town therefor in sums of not less than one hundred dollars nor more than one thousand dollars each, and having not more than forty years to run, and bearing a rate of interest not exceeding six per cent. per annum, payable semi-annually; provided, that no indebtedness shall be refunded at a higher rate of interest than that

borne by the original debt. Such bonds shall be of the character known as "serials," not less than one fortieth of the principal being payable each year, together with the interest due on all sums unpaid. Principal and interest on said bonds shall be payable in gold coin or other lawful money of the United States, as may be expressed in said bonds, at the office of the treasurer of said city or town. Said bonds shall be sold in the manner provided by such city council or other governing body, to the highest bidder therefor, for not less than their face value, in the same character of money as that in which they are payable. The proceeds of such sale shall be placed in the treasury of such city or town to the credit of the "funding fund," and shall be applied only to refunding the indebtedness for which said bonds were issued. Said trustees, or other governing body, shall at the time for fixing the general tax levy for each year, and in the same manner as such tax levy is made, levy and collect sufficient money to pay one-fortieth part of the principal of said bonds issued under this act, and also the annual interest upon the sums unpaid.

Sec. 2. Whenever sufficient money is in the funding fund, in the hands of the treasurer, to redeem one or more of the outstanding bonds proposed to be refunded, he shall publish once a week for two weeks in some newspaper of general circulation published in such city or town, if there be any, a notice to the effect that he is prepared to pay such bond or bonds (giving the number thereof), and if the same are not presented for redemption within thirty days after the first publication of such notice, the interest on such bonds will cease. He shall, at the same time, deposit in the post office a copy of such notice, inclosed in a sealed envelope, with the postage paid thereon, addressed to the owner or owners of such bond or bonds, at the post office address of such owner or owners, as shown by the record thereof kept in the treasurer's office. If such bond or bonds are not presented within the time specified in such notice, the interest thereon shall then cease, and the amount due be set aside for the payment of the same, whenever presented. All redemption of bonds shall be made according to the priority in

the order of their issuance, beginning at the first number. Whenever such outstanding bonds are surrendered and paid, the treasurer shall proceed to cancel the same by indorsing on the face thereof the amount for which they are received, the word "canceled" and the date of cancellation. He shall also keep a record of such bonds so redeemed, and shall make a report of the same to the common council, or other governing body of such city or town, at least once a month, accompanying the same therewith by the bonds which have been taken up and canceled.

Sec. 3. All moneys which shall remain in said funding fund after all outstanding bonds as were proposed to be refunded have been taken up and canceled, shall be paid into the general fund of such city or town, and become a part thereof.

Sec. 4. Chapter eighty-two of the statutes of eighteen hundred and eighty-three, chapter forty-eight of the statutes of eighteen hundred and ninety-three, and chapter one hundred and seventy-six of the statutes of eighteen hundred and ninety-five, all being laws of the state of California in conflict herewith, are hereby repealed.

Sec. 5. This act shall take effect and be in force immediately after its passage.

This act repealed the act of March 15, 1883; Stats. 1883, p. 370, and the amendatory act of March 27, 1895; Stats. 1895, p. 203, providing for the refunding of indebtedness and the issuing of bonds.

An act to provide for the funding of certain indebtedness of the several counties of this state, and the issuance of bonds therefor.

[Approved February 26, 1889; 1889, 37.]

Outstanding indebtedness of counties, when may be funded.

Sec. 1. Whenever any county shall have had, at twelve o'clock meridian, on the first day of January eighteen hundred and eighty, an outstanding indebtedness evidenced by bonds or warrants thereof, theretofore legally issued, and such indebtedness, or any part thereof, shall have been thereafter paid out of the income and revenue re-

ceived by such county since that date, and such county shall have since that date legally incurred an indebtedness evidenced by warrants thereof, and which warrants shall not have been paid by reason of such application of the current revenues of such county to the payment of the indebtedness of former years, the board of supervisors of such county, by a vote of two thirds of all the members thereof, are empowered, if they deem it for the public interest, to fund such last-mentioned indebtedness and to issue bonds of such county therefor, in the manner provided in subdivision fourteen of section twenty-five of an act entitled "An act to establish a uniform system of county and township governments," approved March fourteenth, eighteen hundred and eighty-three; and all the provisions of said subdivision of said section shall apply to the issuance, disposal, and payment of such bonds, and to the levy of taxes for the redemption of the same, except as herein otherwise provided.

When not permitted.

Sec. 2. No indebtedness of such county shall be funded under the provisions of this act which in any year exceeded the income and revenue provided for such county for such year, nor which shall exceed the amount of the current revenue which shall have been so applied to the payment of indebtedness outstanding at twelve o'clock meridian on the first day of January, eighteen hundred and eighty.

Statement.

Sec. 3. Such bonds shall, in addition to the matters required to be stated therein by the provisions of the above-mentioned act, contain a statement that they are issued under the authority of this act, referring to the same by its title and date of passage.

Exchange of bonds for warrants of county

Sec. 4. Such bonds, when issued, may be exchanged by the county treasurer, under the direction of the board of supervisors, only for warrants of such county legally issued since twelve o'clock meridian on the first day of January, eighteen hundred and eighty, which, together with warrants theretofore issued, did not, in any year, exceed the income and revenue provided for such

county for such year, and which shall remain unpaid because the revenue, otherwise applicable to the payment of the same, shall have been so applied to the payment of the indebtedness of former years. If any portion of such bonds shall be sold for money, the proceeds thereof shall be applied exclusively to the payment of the warrants mentioned in this section.

Sec. 5. This act shall take effect immediately.

An act authorizing the board of supervisors of any county, or any subdivision of a county, having a bonded debt, to refund such debt at a less rate of interest.

[Approved March 18, 1885.] *Slats 85, 211*

Sec. 1. When any county in this state, or any subdivision thereof, has an existing bonded debt, the board of supervisors of such county may, at any time after it has become known that any person or persons, company, firm, or corporation is willing to purchase such bonds at a lower rate of interest than the bonds already in existence bear, refund such indebtedness, or any part thereof, by issuing new bonds, of the same denomination and in the same form as the existing bonds, and substituting such new issue for the existing bonds.

Sec. 2. Before taking any steps to refund such bonded indebtedness, as provided in the preceding section, the board of supervisors shall notify the holder or holders of existing bonds, either by personal service or by publication for one month in the official county newspaper, that unless he or they shall, within thirty days after the service of such notice, present the bonds held by him or them to such board of supervisors, at a place to be stated in said notice, and consent to a reduction of the interest thereon to as low a rate as is offered by any other person or persons, firm, company, or corporation, the board of supervisors will proceed to cancel such bonds by payment of the principal and interest thereon accrued.

Sec. 3. The board of supervisors of any county in which such bonds have been issued is hereby authorized to cancel at any time any outstanding bonds by paying the principal and interest due thereon at the time of cancellation, and issuing in lieu thereof new bonds at a less rate of interest.

An act providing for submitting to a vote of the qualified electors of a county, or city and county, a proposal to issue bonds.

[Approved March 15, 1883; 1883. 375.]

Issue of bonds to be submitted to vote

*Section*  
Sec. 1. Any county, or city and county, in which the board of supervisors may declare by resolution that the income and revenue provided for it for the fiscal year ending June thirtieth, eighteen hundred and eighty-three, will not be sufficient to carry on the government of such county, or city and county, until the commencement of the fiscal year beginning July first, eighteen hundred and eighty-three, may, by resolution adopted by a majority of such board, and with the approval of the presiding officer thereof, submit to a vote of the qualified electors of such county, or city and county, a proposition to issue the bonds of such county, or city and county, in a sum not to exceed five hundred thousand dollars, in accordance with section eighteen of article eleven of the constitution of the state of California.

Supervisors to issue and negotiate.

Sec. 2. The said board of supervisors are granted full power and authority to provide by ordinance for the printing, signing, custody, redemption, and issuance of all bonds under the provisions of this act, and for their negotiation, sale, or exchange for cash, or for county, or city and county indebtedness: provided, that said bonds shall not be sold below par.

Sinking fund created.

Sec. 3. Before any election is held to determine the question of the issuance of said bonds, the board of supervisors may provide by ordinance for the collection of an annual tax sufficient to pay the interest on any bonds which may be issued under the provisions of this act, as said interest falls due, and also to constitute a sinking fund to pay the principal of said bonds at a time to be fixed by said board of supervisors, not more than twenty years from the date of the passage of said ordinance.



### Calling of election.

Sec. 4. Whenever the said board of supervisors shall, by resolution, so request, it shall be the duty of all officers, boards, and commissioners, to call an election as herein, and by said board of supervisors provided for, and at the time (which shall not be less than ten days) provided for by said board of supervisors; and at said election the registers used at the last general or special election shall be used without new registration.

Sec. 5. This act shall be in force from and after its passage.

An act to authorize the several counties of this state to create a bonded indebtedness for certain purposes.

[Approved March 19, 1889; 1889, 348.]

Issuance of bonds to pay county indebtedness, not created by law, to be submitted to a vote.

Section 1. Whenever it shall appear to the satisfaction of the board of supervisors of any county of this state that said county is justly indebted to any person or persons for money received into the treasury of said county, and used by said county, and which said indebtedness at the time of its creation was not authorized by law, they shall, by ordinance, declare that said county is justly indebted to the person or persons named in said ordinance, in a sum named therein, and that the question of issuing bonds in the sum therein named, for the purpose of paying said debt, shall be submitted to a vote of the legal voters of said county.

### Notice of election.

Sec. 2. The supervisors of said county shall thereupon publish a notice calling an election to be held in said county, submitting to the voters of said county the question whether said bonds shall be issued or not. The notice shall state the amount of bonds to be issued, the purpose for which they are issued; said notice shall be published, and the election held as provided by section thirty-seven of the act of the legislature of the state of California, entitled "An act to establish Gen. Laws—82.

lish a uniform system of county and township governments," approved March fourteenth, eighteen hundred and eighty-three.

Return.

Sec. 3. If upon return of the election it shall appear that two thirds of all the voters voting at such election have voted in favor of issuing said bonds, the supervisors are required to issue bonds in the sum named in the notice of election, payable to the creditors named in said ordinance; said bonds shall bear interest at the rate of five per cent. per annum, and shall be payable at such time as the board of supervisors shall order, not exceeding twenty years from date. They shall be signed by the chairman of the board of supervisors and county clerk.

Tax levy to pay interest.

Sec. 4. It shall be the duty of the board of supervisors each year to levy a tax sufficient to pay the annual interest on said bonds, and to pay the principal as the same shall become due.

This act is to take effect from and after its passage.

An act to authorize cities of not less than twenty-six thousand nor more than thirty thousand inhabitants, to vote upon the question of paying indebtedness incurred in the years 1889 and 1890.

[Approved February 20, 1891; Stats. 1891, p. 8.]

Sec. 1. The board of trustees or the governing body of all cities of not less than twenty-six thousand nor more than thirty thousand inhabitants are hereby authorized to submit to the qualified electors of such city, at either a general or municipal election in said city, or special election, the question whether or not any indebtedness incurred by or claimed to be due from said city, contracted in the years eighteen hundred and eighty-nine and eighteen hundred and ninety, shall be paid.

Sec. 2. Said board of trustees or other governing body shall specify particularly, in the proclamation for such election, the amount of the claimed

indebtedness, and for what services it is claimed to be due, and shall specify, if the election is a special one, the form of ballots to be used by the electors, and the time, place and manner of holding said election and canvassing the returns thereof, and declaring the result thereof. If said question is voted upon at a general or municipal election, the ballots shall contain the words, "For the payment—Yes" and "For the payment—No," in addition to the other matters contained therein.

Sec. 3. If two thirds of the votes cast upon such question vote in the affirmative, the said board of trustees or other governing body shall immediately order paid, as other claims against said city are paid, the said amount so voted; and for that purpose shall be and are hereby authorized to incorporate the said amount in the next tax levy, if the same has not been already levied, for the year in which such election is held; and if such tax levy has been levied, then they shall make a new assessment and levy for the said amount, using the last assessment roll as a basis therefor.

Sec. 4. This act shall take effect and be in force from and after its passage.

An act to prohibit the creation of debts against the state in excess of appropriations made by law except in cases of actual necessity, and on consent of the board of examiners.

[Approved March 23, 1893; Stats. 1893, p. 285.]

Sec. 1. No officer or employee in the service of the state shall have power to create any deficiency in excess of any appropriation of money made by law, except in case of actual necessity, and only then upon the written authority, first obtained, of the governor, secretary of state, and attorney-general; and any indebtedness attempted to be created against the state in violation of the provisions of this act shall be absolutely null and void, and shall not be allowed by the state board of examiners.

Sec. 2. This act shall take effect from and after its passage.

## TITLE 219.

## PUBLIC HEALTH.

Act relating to, see Penal Code, Appendix, title, Public Health, p. 608.

An Act to create the office of attorney for the state board of health and the board of health of the city and county of San Francisco.

*Referred* [Approved March 31, 1891: Stats. 1891, p. 209.]

An Act to appropriate money to prevent the introduction of contagious diseases.

[Approved March 23, 1893; Stats. 1893, p. 189.]

Fifty thousand dollars was appropriated.

An Act to appropriate money to prevent the introduction of contagious and infectious diseases.

[Approved March 4, 1887; 1887, 18.]

Ten thousand dollars was appropriated for this purpose.

An Act to prevent the introduction of contagious or infectious diseases into the state of California.

[Approved March 15, 1883; 1883, 376.]

Railroad cars to be inspected.

Section 1. Whenever there shall exist, in the opinion of the state board of health, imminent danger of the introduction of contagious or infectious diseases into the state of California, by means of railroad communication with other states, the said state board of health are authorized, and it is hereby made their duty, to make or cause to be made, by an accredited agent or inspector, an inspection of all railroad cars, coming into the state at such point, or between such points within the state limits as may be selected for the purpose.

Detention of train a minimum.

Sec. 2. Such inspection shall be made, where practicable, during the ordinary detention of a train at a station, or while in transit between stations, and in all cases shall be so conducted as to occasion the least possible detention or interruption of travel or inconvenience to the railroad companies, so far as consistent with the purposes of this act.

Infected cars to be side-tracked.

Sec. 3. Should the discovery be made of the existence among the passengers of any case or cases of dangerous, contagious, or infectious disease, the said board of health, or their agent or inspector, under rules and conditions prescribed by them as being applicable to the nature of the disease, shall have power to cause the side-tracking or detention of any car or cars so infected, to isolate the sick or remove them to a suitable place for treatment, to establish a suitable refuge-station, to cause the passengers and materials in such infected car to be subjected to disinfection and cleansing before proceeding farther into the state, and, in the case of small-pox, to offer free vaccination to all persons exposed in any car or at any station.

Appropriation.

Sec. 4. The sum of five hundred dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be expended solely for the purposes of this act, and all expenditures herein authorized shall be specified in an itemized account to be presented to the state board of examiners, and paid as other demands on the treasury are paid; provided, that in no case shall the sum expended exceed that herein specially appropriated for the purpose.

Sec. 5. This act shall take effect from and after its passage.

An Act to authorize the state board of health to purchase and manufacture diphtheria anti-toxine, and to appropriate six thousand dollars therefor.

[Approved March 12, 1895; Stats. 1895, chap. xxxix., In effect immediately.]

*gm.*

*San to Clinton*  
An act to establish and maintain a dispensary in the city of Sacramento.

[Approved March 23, 1872; 1871-2, 531.]

An Act entitled "An act to grant to boards of health in cities, and cities and counties, the power to regulate the plumbing and drainage of buildings."

[Approved March 15, 1883; 1883, 366.]

Plumbers required to register.

Section 1. Every master or journeyman plumber carrying on his trade shall, under such rules and regulations as the board of health of such county, or city and county, shall prescribe, register his name and address at the health-office of such county, or city and county; and after the said date it shall not be lawful for any person to carry on the trade of plumbing in any county, or city and county, unless his name and address be registered as above provided.

Publication.

*Code*  
Sec. 2. A list of the registered plumbers shall be published in the yearly report of the health-office.

Board of health to approve plans.

*See*  
Sec. 3. The drainage and plumbing of all buildings, both public and private, hereafter erected in any county, or city and county, shall be executed in accordance with plans previously approved, in writing, by the board of health of said county, or city and county; suitable drawings and description of the said drainage and plumbing shall, in each case, be submitted and placed on file in the health-office. The said board of health are also authorized to receive and place on file drawings and descriptions of the drainage and plumbing of buildings erected prior to the passage of this act.

Supervisors to apportion tax.

Sec. 4. The boards of supervisors, or other city or county officials, whose duty it is to make apportionments for the board of health of such county, or city and county, shall make the necessary



apportionments, and shall insert the same in the yearly tax levy, to provide for carrying out the provisions of this act.

Court of record may enjoin.

Sec. 5. Any court of record in said county, or city and county, or any judge or justice thereof, shall have power at any time after the service of notice of the violation of any of the provisions of this act, and upon the affidavit of the health-officer or a member of the board of health of such county, or city and county, to restrain by injunction order the further violation named in this act, or of any work upon or about the building or premises upon which the said violation exists, and no undertaking shall be required as a condition to the granting or issuing of such injunction or by reason thereof.

Sec. 6. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor.

Sec. 7. This act shall take effect immediately.

An act to grant to boards of health or health-officers, in cities, and cities and counties, the power to regulate the plumbing and drainage of buildings, and to provide for the registration of plumbers.

[Approved March 3, 1885; 1885, 12.]

License from board of health.

Section 1. It shall not be lawful for any person to carry on business, or labor as a master or journeyman plumber, in any incorporated city, or in any city and county, in this state until he shall have obtained from the board of health of said city or city and county a license authorizing him to carry on business, or labor as such mechanic. A license so to do shall be issued only after a satisfactory examination by the board of each applicant upon his qualifications to conduct such business or to so labor. All applications for license, and all licenses issued, shall state the name in full, age, nativity, and place of residence of the applicant or person so licensed. It shall be the duty of the secretary of each board of health to keep a record of all such licenses issued, together with an alphabetical index to the same. [Amend-

*In Code*  
*Rev*  
*PC*  
*306*

ment, approved March 9, 1887; Stats. 1887, p. 58. In effect immediately.]

Publish list in yearly report.

Section 2. A list of all licensed plumbers shall be published in the yearly report of the health officer or board of health. [Amendment approved March 9, 1887; Stats 1887, p. 58. In effect immediately.]

Plans of plumbing.

Sec. 3. The drainage and plumbing of all buildings, both public and private, hereafter erected in any city, or city and county, shall be executed in accordance with plans previously approved writing by the board of health of said city, or city and county, and suitable drawings and description of the said drainage and plumbing shall, in each case, be submitted to the board of health, and placed on file in the health-office. The said board of health is also authorized to receive and place on file drawings and descriptions of the drainage and plumbing of buildings erected prior to the passage of this act.

Tax levy.

Sec. 4. The board of supervisors, or other city, or city and county, officials whose duty it is to make appropriations and tax levies for general purposes of such city, or city and county, shall make the necessary appropriations and tax levies, and shall insert the same in the yearly tax levy, to provide for carrying out the provisions of this act. Such appropriations and levy shall be made at the same time and in the same manner as appropriations and tax levies are made for other city, or city and county, purposes.

Where no board of health.

Sec. 5. In any city, or city and county, where there is under existing laws, a health-officer, but no board of health, such health-officer shall perform all the duties required by this act of the board of health until a board of health shall be created, and in any city, or city and county, where there is no health-officer nor board of health, the board of supervisors or city council, or other municipal legislative board or body, shall create a board of health, who shall perform all the duties required by this act of the board of health or health-officer.

### Injunction.

Sec. 6. Any superior court, or judge thereof, shall have power to restrain by injunction the continuance of work to be done upon or about buildings or premises where the provisions of this act have not been complied with, and no undertaking shall be required as a condition to the granting or issuing of such injunction, or by reason thereof.

### Penalty.

Sec. 7. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished accordingly.

Sec. 8. This act shall take effect immediately.

An Act to encourage and provide for a general vaccination in the state of California.

[Approved February 20, 1889; 1889, 32.]

Exclusion of children from schools unless vaccinated.

Section 1. The trustees of the several common school districts in this state, and boards of common school government in the several cities and towns, are directed to exclude from the benefits of the common schools therein any child or any person who has not been vaccinated, until such time when said child or person shall be successfully vaccinated; provided, that any practicing and licensed physician may certify that the child or person has used due diligence and cannot be vaccinated so as to produce a successful vaccination, whereupon such child or person shall be excepted from the operation of this act.

Notice by school trustees.

Sec. 2. The trustees or local boards, annually, or at such special times to be stated by the state board of health, must give at least ten days' notice, by posting a notice in two or more public or conspicuous places within their jurisdiction, that provision has been made for the vaccination of any child of suitable age who may desire to attend the common schools, and whose parents or guardians are pecuniarily or otherwise unable to procure vaccination for such child.

List of children not vaccinated.

Sec. 3. The said trustees or board must, within sixty days after the passage of this act, and every year thereafter, ascertain the number of children or persons in their respective school districts or subdivision of the city school government being of an age suitable to attend common schools, who have not been already vaccinated, and make a list of the names of all such children or persons. It shall also be the duty of said trustees or board to provide, for the vaccination of all such children or persons in their respective school districts, a good and reliable vaccine virus wherewith to vaccinate such children or persons who have not been vaccinated. And when so vaccinated, to give a certificate of vaccination, which certificate shall be evidence thereof for the purpose of complying with section one.

Expenses for, how paid.

Sec. 4. The necessary expenses incurred by the provisions of this act shall be paid out of the common school moneys apportioned to the district, city, or town. And if there be not sufficient money, the trustees must notify the board of supervisors of the amount of money necessary, and the board must, at the time of levying the county tax, levy a tax upon the taxable property in the district sufficient to raise the amount needed. The rate of taxation is ascertained by deducting fifteen per cent for delinquencies from the assessment, and the rate must be based upon the remainder. The tax so levied must be computed and entered upon the assessment roll by the county auditor, and collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of the district.

Annual report of trustees.

Sec. 5. The trustees of the several school districts of this state are hereby required to include in their annual report, and report to the secretary of the state board of health, the number in their several districts between the ages of five and seventeen years who are vaccinated, and the number unvaccinated.

Sec. 6. This act shall take effect immediately.

## TITLE 220.

## PUBLIC LANDS.

See State Lands; reference to acts relating to.  
See ante, p. 551.

Act to protect settlers, see post, Settlers.

An Act for the better protection of settlers on the public lands of the United States within the state of California, and for the protection and encouragement of persons desirous of settling thereon.

[Approved March 15, 1887; 1887, 147.]

Defining crime, and punishment for violation.

Section 1. Every person who shall unlawfully prevent, hinder, or obstruct any person from peaceably entering upon or establishing a settlement or residence on any tract of public land of the United States within the state of California, subject to settlement or entry under any of the public land laws of the United States; or who shall unlawfully hinder, prevent, or obstruct free passage over or through the public lands of the United States within the state of California, for the purpose of entry, settlement, or residence, as aforesaid, is guilty of a misdemeanor, and is punishable by fine of not less than fifty dollars nor more than two hundred and fifty dollars, or by imprisonment in the county jail not exceeding six months, and may be punished by both such fine and imprisonment, in the sound discretion of the court.

Sec. 2. This act shall take effect immediately.

## TITLE 221.

## PUBLIC MARKET.

An act to authorize the state board of harbor commissioners to establish and maintain a free public market upon the waterfront of San Francisco, and providing for the expenses and regulations thereof.

[Stat. approved March 29, 1897; Stats. 1897, chap. clxxv.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. The board of state harbor commissioners shall set apart upon some convenient portion of the water-front of San Francisco, a sufficient number of docks and piers, which must be contiguous to each other, for the reception of all perishable products, arriving by rail, boat, or other conveyance, including fruit, vegetables, eggs, poultry, game, dairy products, and fish, coming into San Francisco and shall permit the sale of such products thereon, by or for account of producers only, under such regulations as may be prescribed by the said harbor commissioners and as the public convenience may require.

Sec. 2. The docks and piers so set apart for a free public market shall be as convenient as possible to that portion of the city and county of San Francisco in which the principal wholesale trade in perishable products is now carried on, and must be so situated as to be accessible to all water craft ordinarily employed in carrying such products upon the waters of San Francisco bay, and vessels so loaded shall have the preference in docking at said wharves over others not so engaged.

Sec. 3. Docking room at said piers shall be assigned without partiality to all vessels engaged in the transportation of such products, and the space assigned shall be sufficient to permit such vessels regularly running upon a route to receive and discharge their entire cargoes of such products at such piers, if they so desire. The harbor commissioners shall construct car tracks to connect the docks and piers so set apart for the free public market with the belt railroad. For the



use of these tracks the state harbor commissioners shall prescribe such regulations as public convenience may require, and fix the compensation to be paid by the companies making use of them for this purpose.

Sec. 4. The harbor commissioners must construct suitable tramways and tracks or other devices for the rapid conveyance of perishable products from car or boat or other conveyance, to the stalls in the free market, and operate the same.

Sec. 5. The harbor commissioners shall assign space within the free market to all producers of perishable products, under such regulations as the harbor commissioners may prescribe. No rental shall be charged for space in the free market. Any violation of this act, or of the regulations made pursuant thereof, shall exclude the person or firm guilty of such violation from the privilege of selling in the free market, during the pleasure of the harbor commissioners, not exceeding one year in addition to any other penalty which may be incurred thereby.

Sec. 6. For the payment of the expenses of said free market the harbor commissioners may, in their judgment, so adjust the tolls as to provide the necessary revenue.

Sec. 7. The officers of said free market shall be a superintendent and assistant superintendent, who shall also be secretary, and such other employees as the state board of harbor commissioners may appoint. The salary of all employees of said free market shall be fixed by the state board of harbor commissioners.

Sec. 8. All officers and employees of any public market on the state property are officers and employees of the state, and shall qualify in the same manner as other employees, and give such bonds as the harbor commissioners may prescribe.

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## TITLE 222.

### PUBLIC PARKS.

The following is a list of acts relating to public parks:

Gen. Laws—83.

An act to authorize the common councils and boards of supervisors of the several cities, counties, and cities and counties in this state to levy taxes for the maintenance of public parks having an area of over ten acres each within their respective limits.

[Approved March 8, 1887; 1887, 52.]

An act to enable incorporated "cities and counties" and "cities" and "towns," to acquire, maintain, and improve public parks and boulevards.

[Approved March 19, 1889; 1889, 361.]

An act to provide for the maintenance and support of the public parks heretofore created within the various cities and counties of the state, and to amend the existing acts in relation thereto.

[Approved March 14, 1889; 1889, 143.]

See amendments to this act in the statutes of 1893, p. 79 and p. 343.

An act authorizing the commissioners of any public park in this state, and especially the park commissioners of Golden Gate park, in San Francisco, to accept donations and bequests in aid of the improvement and embellishment of their respective parks, and to invest the funds derived therefrom.

[Approved March 9, 1885; 1885, 38.]

An act to authorize cities and towns owning public parks outside of their limits, to lay out, construct, and maintain roads, streets, and boulevards from the boundaries of such cities or towns to, into, and through, such parks, and to acquire lands for that purpose.

[Became a law, under constitutional provision, without governor's approval, March 1, 1897; Stats. 1897; chap. xlix.]

An act to extend the jurisdiction and authority of cities and towns over parks owned by them situated beyond the limits of such cities and towns, and over streets and avenues leading to the same.

[Became a law, under constitutional provision, without the governor's approval, March 1, 1897; Stats. 1897, chap. li.]

An act giving the consent of the state of California to the reservation of certain lands by congress.

[Approved March 14, 1891; Stats. 1891, 107.] *Uncc*

This act granted the consent of the state to forest reservations.

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## TITLE 223.

### PUBLIC WORKS.

An Act creating a commissioner of public works, defining his duties and powers, prescribing his compensation, and making appropriation.

[Approved March 24, 1893; Stats. 1893, p. 345.]

Section 1. There is hereby created a commissioner of public works, to be appointed by the governor. The commissioner first appointed under this act shall hold his office for the term of two years from the first day of March, eighteen hundred and ninety-three, and until his successor shall be appointed and qualified, and all subsequent appointments shall be for the term of four years. In case of vacancy occasioned by death, resignation, or otherwise, the governor shall appoint his successor; provided, that any appointment made to fill a vacancy shall be only for the unexpired portion of the term for which the original was made. Said officer, before entering upon the discharge of his duty, shall take and subscribe the official oath, and execute an official bond in the sum of six thousand dollars, to be approved by the governor, and filed and recorded in the office of the secretary of state, as in the case of bonds of other state officials. Such commis-

sioner shall receive a salary of three thousand dollars per annum, payable in monthly installments, and shall be allowed his actual traveling and other necessary incidental expenses incurred while in the performance of official duties. [Amendment approved February 25, 1897; Stat. 1897, chap. 28.]

Sec. 2. This act and the act creating a commissioner of public works, defining his duties and powers, prescribing his compensation, and making appropriation, approved March twenty-fourth, eighteen hundred and ninety-three, relating to the office of commissioner of public works, of which act this is amendatory, shall cease, terminate, and be at an end on the first day of March, eighteen hundred and ninety-nine, and the office of commissioner created hereunder, and under said act approved March twenty-fourth, eighteen hundred and ninety-three, and all officers and employees appointed by said commission, shall cease, and their employment thereafter shall be discontinued, and the state of California shall in no manner whatever be liable for the compensation of the commissioner, officers, or employees, employed by him, or by said commission, after said date. [Amendment approved February 25, 1897; Stats. 1897, ch. 28.]

Sec. 3. Such commissioner shall appoint a secretary, who shall hold office at the pleasure of the commissioner, and until his successor is appointed, and who shall receive a salary of one hundred and fifty dollars per month while actually employed. The commissioner shall adopt a seal.

Sec. 4. The commissioner shall perform such duties in the examination of lands subject to inundation and overflow by flood waters, and of the waters causing and making such inundation and overflow, and in the preparation of plans and estimates of cost for works to regulate and control such flood waters, as he may be directed to perform from time to time by the governor; and he shall perform such other duties in the examination, supervision, and management of such public works, constructed or carried on by the state, or under state authority, or under any law of the state, as he may be directed to perform from time to time by law. He shall have the power to em-

ploy such engineers, assistants, attorneys, agents, and persons as he may deem necessary to carry out the provisions of this act, or to perform any duties imposed by any law upon said commissioner, and to fix their compensation.

Sec. 5. The sum of thirty thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated to pay the salaries and expenses of said commissioner and his employees, and for such other purposes as may be necessary or proper for carrying out the purposes of this act or the provisions of any law imposing duties upon said commissioner. And the controller of state is hereby directed to draw his warrants therefor, and the treasurer is directed to pay the same.

Sec. 6. This act shall take effect immediately.

An Act to provide for, insure, and maintain preference in the appointment, employment, and retention in the public service, and upon public works of the state of California, of honorably discharged ex-Union soldiers, sailors, and marines of the war of the rebellion.

[Approved March 31, 1891; Stats. 1891, p. 289.]

An Act providing for the appointment of an auditing board to the commissioner of public works, authorizing and directing him and them to perform certain duties relating to drainage, to purchase machinery, tools, dredges, and appliances therefor, to improve and rectify water channels, to erect works necessary and incident to said drainage, to condemn land and property for the purposes aforesaid, making certain acts a felony, and making an appropriation of money for the purposes of this act.

[Stat. approved March 17, 1897; Stats. 1897; chap. cxiv.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Sec. 1. Within thirty days after the passage of this act, the governor shall appoint five persons

who shall be citizens of the state of California, and not all members of the same political party, and who, after the first appointment, shall hold office for four years after their appointment, who shall be known as the auditing board to the commissioner of public works. They must, within fifteen days after receiving notice of their appointment, meet in the city of Sacramento and organize by selecting from their number a president and secretary. But of those appointed under this act, the term of office of two shall be for two years, and the term of the others for four years, and the governor shall designate, in their commissions, their respective terms. Thereafter all shall be appointed for four years. All vacancies shall be filled in like manner by appointment from the governor, but the person appointed to fill a vacancy shall fill only the unexpired term. No member thereof shall recover any compensation whatever, but they may be paid their reasonable traveling expenses in attending meetings, to be audited by the board of examiners. They shall meet at Sacramento city once in two months, and oftener if required.

Sec. 2. For the purposes of this act, the report of the commissioner of public works, dated November sixteen, eighteen hundred and ninety-six, and accompanying reports and plans of engineers, shall be adopted and made the basis of operations, and the plans therein specified for promoting drainage and improving and rectifying river channels, shall, as far as practicable, be carried out and finished as herein provided.

Sec. 3. The commissioner of public works shall have charge and superintendence of all work authorized by this act, and shall employ and direct all employees, but no expenditure shall be made without the sanction of the auditing board. The Commissioner of public works shall determine the character and extent of the work to be done in accordance with the said report, and shall have full power to carry on and complete the same.

Sec. 4. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of three hundred thousand dollars, to be paid to the said auditing board, and to be expended for the purposes hereinafter speci-



fied, to wit: for the purchase, construction, and operation of one or more dredgers, or machines, and appliances to improve and rectify the river channels of the state of California, so as to promote drainage and to protect towns and cities of the state of California from inundation, as outlined and described in the said report of commissioner of public works; to erect, build, and construct embankments, and other works, where necessary, for carrying out the purposes of this act; to employ persons in and about said work, and to purchase such supplies as may be necessary for the carrying on of the same, and for doing all other work described in said report, to improve and rectify river channels so as to promote drainage.

Sec. 5. The commissioner of public works shall have power to employ such persons in and about said work as the auditing board may determine to be necessary, at a compensation to be fixed by the auditing board. All contracts for the purchase of material and supplies, or for such work as can be done by contract, where the expense thereof shall exceed the sum of five hundred dollars, shall be awarded to the lowest bidder, at a public letting thereof, and after a notice to bidders to be published in one newspaper published in the city of Sacramento, one in Stockton, and one in San Francisco, for at least one week; provided, that at least two weeks shall intervene between the last publication of said notice, and the time for opening bids; provided, the said bid is a fair and reasonable one. All bids required by this act shall be accompanied by such security as the auditing board may require, conditioned upon the bidder entering into a contract upon the terms of his bid, on notice of the acceptance thereof, and furnishing a penal bond, with good and sufficient sureties, in such sum as the auditing board may require, and to their satisfaction, that he will faithfully perform his contract. If all the bids made at such letting are deemed unreasonably high, the board may, in their discretion, decline to contract, and may again advertise for such time and in such papers as they see proper, for proposals, and may so continue to renew the advertisement until satisfactory contracts are made; and in the

meantime the board may contract for articles and supplies for immediate and temporary use, with any one whose offer is regarded as just and equitable, or may purchase in the open market. No bid shall be accepted, nor a contract entered into in pursuance thereof, when such bid is higher than any other bid at the same letting for the same class or schedule of articles, quality considered, and when a contract can be had at such lower bid. When two or more bids for the same article or articles are equal in amount, the board may select the one which, all things considered, may by them be thought best for the interest of the state, or they may divide the contract between the bidders as in their judgment may seem proper and right. The board shall have power to let a contract in the aggregate, or they may segregate the items, and enter into a contract with the bidder or bidders who may bid lowest on the several articles. The board shall have the power to reject the bid of any person who had a prior contract and who had not, in the opinion of the board, faithfully complied therewith. If, however, any sudden emergency should arise, rendering it necessary, in the judgment of the auditing board, to protect works already completed, or to prevent any work in process of construction being damaged by storms or flood waters, that immediate repairs or work should be done, the said commissioner of public works shall have power to perform such work, or make such repairs, in the manner which to him seems most advisable.

Sec. 6. It will not be necessary to obtain the sanction of any other board or officer for the doing of any work, or the letting of any contract, except as herein specified, but all claims shall be audited by the state board of examiners as provided for by law.

Sec. 7. The auditing board may condemn the right of way necessary for the purpose of doing the work outlined and described in said report of the commissioner of public works, and may purchase or condemn all land and material necessary to carry out such plans of drainage, and may generally connect with, enlarge or strengthen any work of construction, and may condemn any lands which may be by them deemed necessary for the

purposes of the act, and it is hereby declared that such purposes are a public use and that said appropriation is for the public benefit; provided, however, that they shall not interfere with any existing reclamation work or cut ditches or drains without the consent of the board of trustees thereof on, in, or over any lands situated in any swamp land, reclamation, levee, or protection district.

Sec. 8. Whenever the auditing board cannot procure from the owner or owners thereof, without purchase, the right of way or material needed for the construction of such works as are described in the said report of the commissioner of public works, or cannot procure the consent to join or connect with any existing works, or procure lands necessary for the construction and completion of the said system and plan described in said report, the said auditing board may, in their own name or in the name of the state of California, proceed to condemn the same under the provisions of title seven, part three, of the Code of Civil Procedure, and amendments thereto, which are now existing or which may hereafter be made; provided, that cities, towns, levee districts, swamp land districts, reclamation districts, protection districts, and all municipal corporations having levees, reclamation, or protection works shall have and retain the exclusive management and control thereof, subject to the right to connect the work as herein provided.

Sec. 9. Any member of the auditing board, or the commissioner of public works, or any appointee or employee of either, who shall be interested in any contract for the construction of any work provided for by this act, shall be guilty of a felony.

Sec. 10. Nothing contained in this act shall in any manner affect the laws in force in reclamation and levee districts, nor shall any levees be condemned nor purchased under the provisions of this act.

Sec. 11. The controller is hereby directed to draw his warrant in favor of the said auditing board for the amount appropriated by this act, and the treasurer is hereby directed to pay the same.

Sec. 12. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 13. This act shall take effect immediately from and after its passage.

An Act fixing the minimum rate of compensation for labor on public work.

[Stat. approved March 9, 1897; Stats. 1897, chap. lxxxviii.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. The minimum compensation to be paid for labor upon all work performed under the direction, control, or by the authority of any officer of this state acting in his official capacity, or under the direction, control, or by the authority of any municipal corporation within this state, or of any officer thereof acting as such, is hereby fixed at two (2) dollars per day; and a stipulation to that effect must be made a part of all contracts to which the state, or any municipal corporation therein, is a party; provided, however, that this act shall not apply to persons employed regularly in any of the public institutions of the state, or any city, city and county, or county.

Sec. 2. This act shall take effect immediately.

An Act to secure the payment of the claims of materialmen, mechanics, or laborers, employed by contractors upon state, municipal, or other public work.

[Stat. approved March 27, 1897; Stats. 1897; chap. cxl.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. Every contractor, person, company, or corporation, to whom is awarded a contract for the execution or performance of any building, excavating, or other mechanical work, for this state, or by any county, city and county, city, town, or district therein, shall, before entering upon the performance of such work, file with the commis-

sioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a good and sufficient bond, to be approved by such contracting body, officers, or board, in a sum not less than one half of the total amount payable by the terms of the contract; such bond shall be executed by the contractor, and at least two sureties, in an amount not less than the sum specified in the bond, and must provide that if the contractor, person, company or corporation, fails to pay for any materials or supplies furnished for the performance of the work contracted to be done, or for any work or labor done thereon of any kind, that the sureties will pay the same, in an amount not exceeding the sum specified in the bond; provided, that such claims shall be filed as hereafter required.

Sec. 2. Any materialman, person, company, or corporation, furnishing materials or supplies, used in the performance of the work contracted to be executed or performed, or any person who performed work or labor upon the same or any person who supplies both work and materials, and whose claim has not been paid by the contractor, company, or corporation, to whom the contract has been awarded, shall, within thirty days from the time such work is completed, file with the commissioners, managers, trustees, officers, board of supervisors, board of trustees, common council, or other body by whom such contract was awarded, a verified statement of such claims, together with a statement that the same has not been paid. At any time within ninety days after the filing of such claim, the person, company, or corporation filing the same may commence an action against the sureties on the bond, specified and required by section one hereof.

Sec. 3. This act shall take effect immediately.

An Act conferring power upon the common council, board of supervisors, or other governing body of cities, or cities and counties, of over one hundred thousand inhabitants, to acquire or condemn land for a suitable site, and erect thereon a suitable building or buildings for municipal purposes.

[Stat. approved March 27, 1895; Stats. 1895, chap. cxcviii.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. Power and authority is hereby conferred upon the common council, board of supervisors, or other governing body of every city, or city and county, in this state having a population of over one hundred thousand inhabitants, to provide for the erection and construction in such city, or city and county, and at the expense of the same, such additional or other municipal building or buildings as the common council, board of supervisors, or other governing body of such city, or city and county, may determine upon for the accommodation of the criminal department of the superior court, police courts, police stations, prisons, morgues, or coroner's offices of such city, or city and county, and for such other municipal uses as may be deemed necessary.

Sec. 2. In the event that the common council, board of supervisors, or other governing body of such city, or city and county, shall deem it expedient, and in their judgment that the public good requires the construction of such building or buildings, for the construction of which power is conferred upon them by section one of this act, in the manner and mode prescribed by this act, they are hereby authorized and empowered to express such judgment by resolution or order, in such manner as they may deem proper. And for the purpose of raising the money necessary to complete said building or buildings, the said common council, board of supervisors, or other governing body of such city, or city and county, is hereby authorized and empowered to levy and collect, in the same manner and at the same time



as other taxes are levied and collected in such city, or city and county, for municipal purposes, an ad valorem property tax on real and personal property, which shall not in the aggregate exceed the sum of three hundred thousand dollars, which sum shall cover all the expense of the said building or buildings.

Sec. 3. As a site for the erection and construction of said building or buildings, power is hereby conferred upon the common council, board of supervisors, or other governing body of such city, or city and county, to acquire by purchase, or to condemn and acquire under the laws of eminent domain, such land as may be necessary therefor.

Sec. 4. The money arising from the tax hereby authorized to be levied and collected shall be kept by the city, city and county treasury of such city, or city and county in a fund to be known as the "public building fund," and out of which said fund all claims for work, labor, and materials used in the construction of said building, and all other expenses authorized to be incurred under the provisions of this act, shall be paid. All claims against the said fund shall be allowed by the common council, board of supervisors, or other governing body of such city, or city and county, by resolution entered upon the minutes in the same manner and form as other expenditures are authorized, before the auditor shall be authorized to audit the same; and in no case shall any portion of said fund be used or expended for any other purpose than those herein indicated, nor shall any part of the cost of the construction of said building be paid out of any other or different fund; nor shall any lien for work, labor, or material at any time attach to the said building or buildings, nor the land upon which the same is located in any manner whatever.

Sec. 5. When work is to be done upon said building or buildings, or materials to be furnished, it shall be the duty of the common council, board of supervisors, or other governing body of such city, or city and county, to advertise for at least ten days in a daily newspaper published and circulated in such city, or city and county, for sealed proposals for doing both said work and furnishing said material. The said work and ma-

terial shall be of the best quality. The advertisement shall contain a general description of the work to be done and the materials to be furnished, the time within which the same is to be done or furnished, and may refer to plans and specifications for such other details as may be necessary to give a correct understanding regarding the work or materials. The advertisement shall also state the day and an hour of said day within which bids will be received. At the hour and day stated in the advertisement, the said board or body shall proceed to open the bids in the presence of the bidders, and an abstract of each shall be recorded in the minutes by the clerk. A day and hour shall then be fixed for considering the bids and awarding the contract. An abstract of said bids, showing the name of each bidder, the price at which work, labor, and materials are offered to be done or furnished by each, and such other things as may be necessary to show or explain the offer, shall be made by the clerk and published for five days in a daily newspaper of general circulation published in such city, or city and county. At the expiration of five days after the first publication of the abstract, on the day and at the hour fixed by said board or body, said board or body shall proceed to consider the several bids and award the contract for doing the work and supplying the material for which proposals are invited, and for none other, to the lowest bidder who shall furnish sufficient sureties to guarantee the performance of the contract; provided, the advertisement hereinbefore provided for, shall invite proposals and bids, in one total sum or amount, for the performance of all the work and the furnishing of all the materials called for in the said advertisement for the erection of the entire building or buildings. Said board or body shall have the right to reject any or all bids, when in their judgment the public interests may be thereby promoted. Such contract shall be executed on behalf of such city, or city and county, by the mayor, or president of the common council, board of supervisors, or other governing body of such city, or city and county. No change in the plans or specifications shall be made after proposals for doing work and furnishing materials have been

called for, nor shall any contractor be allowed a claim for work done or materials furnished in excess of his contract, except on the approval of said common council, board of supervisors, or other governing body of cities, or cities and counties; provided, that the aggregate cost of any change, or changes, shall not exceed the sum of three thousand dollars. All contracts shall be in writing, and shall be carefully drawn by the city attorney, city and county attorney, or other law officer of such city, or city and county, and shall contain detailed specifications of the work to be done, the manner in which the same shall be executed, the quality of the material, and the time within which the same shall be completed; and such penalty for the non-performance of such contract as said board or body may deem just and reasonable. All contracts shall be signed in triplicate—one copy of which, with the plans and specifications of the work to be done, shall be filed with the clerk or secretary of said board or body, and shall at all times, in office hours, be open to the inspection of the public; one, with the plans and specifications, shall be kept in the office of said board or body, and the other copy, with plans and specifications, shall be delivered to the contractor. [Amendment approved March 2, 1897; Stats. 1897, chap. lv. In effect immediately.]

Sec. 6. The common council, board of supervisors, or other governing body of such city, or city and county, may make payments on such contract from time to time, as work progresses or materials are furnished; but until the contract is completed, at no time shall the payments exceed seventy-five per centum of the value of the labor or materials furnished.

Sec. 7. The plans and specifications herein referred to shall be secured by said board or body after the publication for ten days in a daily newspaper of general circulation in such city, or city and county, of a resolution inviting the submission of competitive plans and specifications for said building or buildings. Said resolution shall contain a general statement of the purposes for which said building or buildings are to be used, the cost thereof, and the character of the design required. Said plans and specifications may be

submitted to such board or body under such requirements and conditions, and at such time as said board or body may prescribe.

Sec. 8. This act shall take effect and be in force from and after its passage.

## An Act to regulate the erection of public buildings and structures.

[Approved April 1, 1872; 1871-2, 925.]

### Plans and specifications—Advertisement.

Section 1. When by any statute of this state power is given to any state or county officer or officers, or to any board of supervisors or corporation, or any board of trustees or commissioners, or other person or persons created or appointed by authority of any such statute, to erect, or cause to be erected or constructed, any state or county or other building or structure, it shall be the duty of said officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons, to advertise for plans and specifications in detail for said building or other structure, and to state in said advertisement the amount authorized by law or otherwise to be expended for the erection of said building or structure; and also the premium to be awarded to the architect whose plans and specifications for the same may be adopted.

### Architect's bond for contract.

Sec. 2. Whenever the plans and specifications of any architect shall be adopted, such officer or officers, board of supervisors, or corporation, or board of trustees or commissioners, or other person or persons so adopting the same, shall, before any premium shall be awarded for such plans and specifications, require such architect to execute and file with such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, a good and sufficient bond, with two sufficient sureties thereto, in the penal sum of five thousand dollars, to be approved by such officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons, as the case may be, and conditioned that within sixty

days from the date of said bond he will, on presentment to him, enter into a contract containing such provisions and conditions as may be required by such officer or officers, board of supervisors, corporation, or board of trustees, or commissioners, or other person or persons; and also conditioned that he will give such further bond to secure the faithful performance of such contract, with such sureties as may be required of him, in the event that such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, so acting under authority of law, should, within said sixty days, require said architect to enter into such contract to erect such building or structure, at the price named in said advertisement to be expended for such purpose. In case said architect whose plans and specifications are adopted should enter into such contract, it shall be the duty of such officer or officers, board of supervisors, corporation, or board of trustees or commissioners, or other person or persons, to employ a competent architect or superintendent to superintend the erection of such building or structure, and to see that such plans and specifications are faithfully carried out.

When contracts void.

Sec. 3. All contracts entered into by such officer or officers, board of supervisors, corporation, board of trustees, commissioners, or other person or persons, in violation of the provisions of this act, shall be null and void.

Sec. 4. This act shall take effect and be in force from and after its passage.

An Act to regulate contracts on behalf of the state, in relation to erections and buildings.

[Approved March 23, 1876; 1875-6, 427.]

Before contracting, plans to be furnished.

Section 1. That in all cases where the commissioners, directors, trustees, or other officer or officers, to whom is confided by law the duty of devising and superintending the erection, alteration, addition to, or improvement of any state institution, asylum, or other improvement, erected, or now being erected, or to be erected, by the state,

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such commissioners, directors, trustees, or other officer or officers, before entering into any contract for the erection, alteration, addition to, or improvement of such institution, asylum, or other improvement, or for the supply of materials thereof, the aggregate cost of which erection, alteration, addition, or improvement, and materials therefor, exceed the sum of three thousand dollars, shall make, or procure to be made, a full, complete, and accurate plan or plans of such institution, asylum or other improvement, or of any addition to, or alteration or improvement thereof, in all its parts, showing all the necessary details of the work, together with working plans suitable for the use of the mechanics or other builders during the construction thereof, so drawn and represented as to be plain and easily understood; and also accurate bills, showing the exact amount of all the different kinds of materials necessary in the erection thereof, addition thereto, or in the alteration or improvement thereof, to accompany said plan or plans; and also full and complete specifications of the work to be done, showing the manner and style in which the same will be required to be done, giving such directions for the same as will enable any competent mechanic or other builder to carry them out, and afford the bidders all needful information to enable them to understand what will be required in the erection, addition to, alteration, or improvement of such institution, asylum, or other improvement, and to make, or cause to be made, a full, accurate, and complete estimate of each item of expense, and the entire aggregate cost of such institution, asylum, or other improvement, or of any addition to, alteration or improvement thereof, when completed.

Plans, etc., to be approved by governor, treasurer, and secretary of state.

Sec. 2. That such plans, drawings, representations, bills of materials, and specifications of work, and estimates of the cost thereof, in detail and in the aggregate, as are required in the first section of this act to be made, shall be, when made, submitted to the governor, state treasurer, and secretary of state, for their approval, and if approved by them, a copy thereof shall be deposited and safely kept in the office of controller of state.



Sealed proposals, notice of.

Section 3. That after such plans, descriptions, bills of materials, and specifications and estimates as are in this act required are made and approved, in accordance with the requirements of this act, it shall be and is hereby made the duty of such commissioners, directors, trustees, or other officer or officers to whom the duty of devising and superintending the erection, addition to, alteration, or improvement of such institution, asylum, or other improvement as in this act provided, to give or cause to be given public notice of the time and place when and where sealed proposals will be received for performing the labor and furnishing the materials necessary to the erection of such institution, asylum, or other improvement, or for the adding to, altering, or improvement thereof, and a contract or contracts based on such sealed proposals will be made, which notice shall be published weekly for four consecutive weeks next preceding the day named for the making of such contract or contracts, in the paper having the largest circulation in the county where the work is to be let, and in three daily papers having the largest circulation and published one in each of the cities of Los Angeles, Sacramento, and San Francisco, and shall state when and where such plan or plans, descriptions, bills, and specifications can be seen, and which shall be open to public inspection at all business hours between the date of such notice and the making of such contract or contracts. The aforesaid notice must state that separate bids will be received and separate contracts let for the performance of each of the following parts of said erection, addition, alteration, or improvement, including the furnishing of materials and labor necessary therefor, viz.: first, for the masonry work, including all brick, stone, terra cotta, and concrete work, and all necessary excavations and filling; second, for the iron work; third, for the carpenter, plastering, electric, and glazing work; fourth, for the plumbing and gas-fitting work; fifth, for the heating work; sixth, for the tinning, galvanized iron, and slating work; and seventh, for the painting and graining work; and there shall be in all such cases as many separate contracts let therefor as there are differ

ent kinds of work, according to the foregoing classification, whether the same be let by the state board of harbor commissioners or any other of the aforesaid commissioners, directors, trustees, or other officer or officers. [Amendment approved March 27, 1895; Stats. 1895, chap. exci. In effect immediately.]

Bond that contractor will perform contract.

Sec. 4. That on the day named in said public notice, said commissioners, directors, trustees, or officer or officers, as aforesaid, shall proceed to publicly open said sealed proposals, and shall award such contract or contracts for doing the work and furnishing materials for the same to the lowest bidder, giving responsible bonds; provided always, that no proposals shall be considered unless accompanied with a bond of said proposer, equal to ten per cent of his proposal, with sufficient sureties, conditioned that if said proposal shall be accepted the party proposing will duly enter into a proper contract, and faithfully perform his or their contract or contracts, in accordance with said proposal, and the plan or plans, specifications, and descriptions, which shall be and are hereby made a part of such contract or contracts; and provided further, that such contract or contracts shall not be binding on the state until they are submitted to the attorney-general, and by him found to be in accordance with the provisions of this act, and his certificate thereon to that effect made; and provided further, that if in the opinion of such commissioners, directors, trustees, or other officer or officers, the acceptance of the lowest bid or bids shall not be for the best interests of the state, it may be lawful for them, with the written advice and consent of the governor, state treasurer, and secretary of state, to accept such proposal or proposals opened, as in their opinion may be better for the interests of the state, or reject all proposals and advertise for others in the manner aforesaid. All contracts shall provide that such commissioners, directors, trustees, or other officer or officers may, as hereinafter provided, and on the conditions stated, make any change in the work or materials.

No change in plan to be made unless approved as original.

Sec. 5. That no change of the plan or plans, descriptions, bills of materials, or specifications which shall either increase or decrease the cost of said institution, asylum, building, or improvement, exceeding the sum of one thousand dollars, shall be made or allowed after they are once approved and filed with the controller of state as herein required, until such proposed change shall have received the approval of the governor, state treasurer, and secretary of state; and when so approved, the plan or plans of such change, with the description thereof, and the specifications of the work, and bills of material, shall be filed with the controller of state in the same manner as required before such change was made; and no allowance whatever shall be made for work performed or materials furnished under such change of plan or plans, or descriptions, or specifications, or bills of materials, unless, before such labor is performed and materials furnished, a contract or contracts therefor is made in writing, which contract or contracts shall show distinctly the nature of such change, and shall be subject to all the conditions and provisions herein imposed upon the original contracts, and be subject also to the approval of the attorney-general as hereinbefore provided; provided, that all changes in the contract exceeding five hundred dollars shall be by contracts in writing, with full specifications and estimates, and shall become a part of the original contract, and shall be filed with the controller of state, with the original contract; and provided further, that the amount of such change in the contract, plans, descriptions, bills of materials, or specifications shall not, in the aggregate, increase the cost of construction of said institution, asylum, building, or improvement more than three per centum of the original contract price or cost.

Whole cost not to exceed amount authorized by law.

Sec. 6. That no contract or contracts shall be made for the labor or material herein provided for at a price in excess of the entire estimate thereof in this act required to be made, and the entire contract or contracts shall not, including

estimates of expenses for architects and otherwise, exceed in the aggregate the amount authorized by law for such institution, asylum, building, or other improvement, or such addition to, or alteration or improvement thereof, under the penalties of section ten of this act hereinafter provided.

Directors, etc., to estimate labor and materials, and amount due.

Sec. 7. At the time or times named in the contract or contracts made and filed with the controller of state, or which has been previously made and filed with him, in accordance with the provisions of this act, for payment to the person or persons with whom such contract or contracts had been made, it shall be and is hereby made the duty of the commissioners, directors, trustees, or other officer or officers, to whom is confided the duty of superintending the erection of such institution, asylum, building, or improvement, or adding to, altering, or improving the same, to make or cause to be made a full, accurate, and detailed estimate of the various kinds of labor performed and materials furnished under such contract or contracts, with the amount due for each kind of labor and materials, and the amount due in the aggregate, which estimate shall be based upon an actual measurement of the labor so performed and materials so furnished, which estimate shall, in all cases, give the amounts of the preceding estimate or estimates, and the amount of labor performed and materials furnished since the last estimate, which estimate or estimates so made, as in this act required, shall be recorded in a book for that purpose to be provided and kept, or caused to be kept, by the said commissioners, directors, trustees, or other officer or officers, and a certified copy thereof, addressed to the controller of state by the said commissioners, directors, trustees, or other officer or officers, or by such person as they may designate for that purpose, be delivered to the contractor or contractors, entitled thereto; provided, that upon all estimates of materials furnished and delivered, and not actually having entered into and become a part of said institution, building or other improvement, there shall not be paid, until the same shall be incorporated into

and become a part of said institution, building, or other improvement, exceeding fifty per centum of such estimated value.

Controller to compare estimate with contract.

Sec. 8. It shall be the duty of the controller of state, on the receipt of such estimate so certified and approved, to compare, carefully the same with the contract or contracts under which labor was done or materials furnished, and if there had been any previous estimates, then with such estimates; and if, upon such comparison, he shall find such last-named estimate in all respects correct, he shall number the same, place it on file, and have a record thereof made, and give to the person or persons entitled thereto, taking his or their receipt therefor, a warrant on the treasurer of state for the amount shown by such estimate or estimates to be due, less the amount of ten per centum thereon, which shall be retained as an additional security for the faithful performance of his or their contract or contracts, and shall be forfeited to the state in the event of a failure of such contractor or contractors to conform in good faith to the terms and conditions of such contract or contracts; but when the labor to be performed and materials furnished, under such contract or contracts, is performed and furnished, and a final estimate thereof made, the controller of state shall include in the warrant or warrants for the amount of such last estimate the percentage retained on former estimates.

Sec. 9. The treasurer of state shall pay the warrants issued by the controller of state, under and by virtue of the provisions of this act, placing the same on file, and keeping a register of the names of the person or persons to whom such warrants are paid.

Officer making fraudulent plans or estimates.

Sec. 10. Any commissioner, director, trustee, or other officer or person otherwise appointed, whose duty it is to superintend, in whole or in part, the erection of such institution, asylum, building, or improvement, or of adding to, altering, or the improvement thereof, or the making of the plans, descriptions, and specifications of the labor to be performed and materials to be furnished, as provid-

ed in this act, and the estimates of the cost thereof, or the estimates of the amount of labor done and materials furnished from time to time, under and in accordance with the terms and conditions of the contracts in this act authorized to be made, and the provisions of this act, who shall, in the performance of the duty herein imposed upon him or upon them, knowingly make incomplete or fraudulent plans, drawings, bills of materials, specifications of work, or estimates of the cost thereof, or permit the work in any other manner than is prescribed in such plans, descriptions, and specifications, or with materials inferior to that required by such bills of materials, to the injury of the state; or shall knowingly make false estimates of the labor done or materials furnished, either in the quantity or price thereof, to the injury of the state; or any contractor, or any agent of any contractor or contractors, who shall knowingly permit materials to be used or work to be done inferior to, or in violation of, the contract of such contractor or contractors, to the injury of the state, shall be deemed and held guilty of a felony, and upon conviction thereof shall be confined in the state prison for not less than one year nor more than five years, and be liable to the state for double the amount the state may have lost, or be liable to lose, by reason thereof.

Attorney-general to enforce contracts.

Sec. 11. It shall be the duty of the attorney-general to have charge of and direct all the proceedings necessary to enforce the contracts authorized by this act and the provisions of this act, against such person or persons as become liable to the penalties herein prescribed.

Officers to require diligence in contractor.

Sec. 12. Whenever, in the opinion of the commissioners, directors, trustees, or other officers charged with the duty of devising and superintending the erection, alteration, addition to, or improvement of any state institution, asylum, building, or other improvement under this act, or any law of this state, the work under any contract made in pursuance of this act, or any such law, is neglected by the contractor or contractors, or that the same is not prosecuted with the diligence and force speci-



fied, meant, or intended in and by the terms of the contract, it shall be lawful for such commissioners, directors, trustees, or other officers to make a requisition upon such contractor or contractors for such additional specific force, or for such additional specific materials, to be brought into the work under such contract, or to remove improper materials from the grounds, as in the judgment of such commissioners, directors, trustees, or other officers, said contract and its due and faithful fulfillment require; of which action of said board or other officers, due notice in writing, of not less than five days, shall be served upon such contractor, or his or their agent having charge of the work. And if such contractor or contractors fail to comply with such requisition within fifteen days, it shall be lawful for said commissioners, directors, trustees, or other officers, with the consent, in writing, of the governor, treasurer of state, and secretary of state, to employ upon such work the additional force, or supply the materials so specifically required as aforesaid. or such part of either as they may deem proper, and to remove improper materials from the grounds; and it shall be the duty of such commissioners, directors, trustees, or other officers, to make separate estimates of all such additional force or materials so employed or supplied as aforesaid, and which, being certified to by said commissioners, directors, trustees, or other officers, shall be paid by the controller of state the same as if made out agreeably to section seven of this act, and the amount so paid shall be charged against said contractor or contractors, and deducted from his or their next, or any subsequent, estimate; or the same, or any part thereof, not paid as aforesaid, may be recovered by action from such contractor or contractors, and their sureties.

Time to be fixed for completion of contract.

Sec. 13. In all contracts made under the provisions of this act, there shall be a provision in regard to the time when the whole, or any specified portion, of the work contemplated in said contract shall be completed, and also providing that for each and every day the same shall be delayed beyond such time or times so named, the said con-

tractor or contractors shall forfeit and pay to the state a sum of money, to be fixed and determined in said contract, to be deducted from any payment or payments due, or to become due, to said contractor or contractors.

Applicable to former contracts.

Sec. 14. All contracts now made and not performed, for the erection, alteration, addition to, or improvement of any state institution, asylum, building, or other improvement, shall, as far as practicable, be performed, completed, and enforced and settled for under this act, or may, by the consent of the contracting parties, be made to conform to and proceed under the provisions of this act.

Sec. 15. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 16. This act shall take effect from and after its passage.

An Act to provide for the completion of all unfinished county, city, city and county, town, and township buildings in the several counties, cities and counties, cities, and towns, throughout the state of California.

[Approved March 10, 1887; 1887, 95.]

Construction of unfinished buildings.

Section 1. In the event that the Board of Supervisors of the several counties, cities, and cities and counties of the State of California shall deem it expedient to continue the construction of any unfinished county, or city and county, or town, or township building or buildings now in the process of construction, they are hereby authorized and empowered to express such judgment, by resolution or order, in such form as they may deem proper; and for the purpose of raising the money necessary to complete said building or buildings the Board of Supervisors of the several counties, cities, and cities and counties of the State of California are hereby authorized and empowered to levy and collect, annually, for the fiscal year commencing July first, eighteen hundred and eighty-seven, and ending June thirtieth, eighteen hundred and eighty-eight, and each and every fiscal year thereafter during the eight

fiscal years next ensuing, in the same manner and at the same times as other taxes in said counties, cities, and towns, and townships, and cities and counties are levied and collected, an ad valorem property tax on real and personal property within the said counties, or cities and counties, cities, towns, and townships, of ten cents on each one hundred dollars of value, as shown by the assessment rolls of said counties, cities, cities and counties, towns, and townships for the current fiscal year; provided, the moneys raised under the provisions of this Act shall be expended only in the manner and for the purposes authorized by law, or by the Act or Acts authorizing the construction of the building or buildings; and provided further, that no part of said moneys shall be used for the purchase of carpets, furniture, fixtures, or other office furnishings of the rooms or offices completed and in use at the time of the passage of this Act, nor for any furniture or other office fixtures or furnishings for the rooms or offices yet to be completed, save and except such office fixtures as are usually affixed to and constitute a part of the permanent structure or arrangement of such offices or rooms; and it is further provided, that whenever, in the judgment of the Board of Supervisors of the several counties, cities, and cities and counties of the State of California, or of any person or persons, board, or commission having charge of any building or buildings now in the process of construction, it shall be deemed necessary for the preservation of the building or buildings, or convenient occupation thereof, or the improvement or maintenance of sanitary conditions therein, or the protection of life, to make repairs on said building or buildings, or alterations thereof not inconsistent with the accepted plan of the building or buildings, the Board of Supervisors, person or persons, board, or commission having legal charge of the same, shall have the power to expend in any one year on such repairs or alterations, exclusive of the cost of repairs or alterations on the roof or roofs thereof, the sum of ten thousand dollars, and no more; which sum may be expended without regard to any of the requirements of any Act or Acts authorizing the construction of the building or buildings, if the amount

expended at any one time does not exceed the sum of one thousand dollars; but whenever an expenditure in excess of the sum of one thousand dollars should be required, it shall be made according to the provisions of the Act or Acts authorizing the construction of the building or buildings. [Amendment approved March 26, 1895; Stats. 1895, chap. clxii. In effect immediately.]

Sec. 2. All laws now in force, except in so far as they relate to the levy and collection of taxes for the completion of any county, or city and county, or city, or towns, or townships building or buildings, are hereby continued in full force and effect.

An Act concerning the completion of unfinished public buildings in any county, city, city and county, or town in this state, and permitting alterations of the original plans or designs for the construction thereof.

[Stat. approved March 26, 1895. Stats. 1895, chap. clxi.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. Where there are any unfinished public building or buildings now in process of construction in any county, city, city and county, or town in this State, the Board of Supervisors or other governing body of any county, city, city and county, or town, or any commission created by an Act of the Legislature, having in charge the construction of such unfinished building, shall have the right in the construction thereof to omit from the original or adopted plan therefor such part or parts as in their judgment they shall deem necessary to be left out; provided, no contract has been let for the construction of such part or parts. If, in the judgment of such officers, the public good requires, they may let contracts according to law for the construction, in whole or in part, of the unfinished portions of such public building or buildings in accordance with such altered plan. When the same shall have been constructed in accordance with such altered plan, the building shall be deemed to have been completed.

Sec. 2. Whenever, during the construction of such public building or buildings, changes in the original plans or designs have heretofore been made, and contracts for the construction of the work, in whole or in part, in accordance with the altered plans or designs, have been entered into by the Board of Supervisors, or other governing body of any county, city, city and county, or town, or by the commission having the construction thereof in charge, the said alteration of the original plans or designs that have been made and contracts for same that have been entered into, are hereby ratified, approved, and confirmed.

Sec. 3. This Act shall take effect from and after its passage.

An act authorizing the incurring of indebtedness by cities, towns, and municipal corporations, incorporated under the laws of this state; for the construction of water-works, sewers, and all necessary public improvements, or for any purpose whatever, and to repeal the act approved March 9, 1885, entitled "An Act to authorize municipal corporations of the fifth class, containing more than three thousand and less than ten thousand inhabitants, to obtain water-works"; also to repeal an act approved March 15, 1887, entitled "An Act authorizing the incurring of indebtedness by cities, towns, and municipal corporations, incorporated under the laws of this state."

[Approved March 19, 1889; 1889, 399.]

Municipal corporations may incur indebtedness.

Section 1. Any city, town or municipal corporation, incorporated under the laws of this state, may, as hereinafter provided, incur indebtedness to pay the cost of any municipal improvement, or for any purpose whatever requiring an expenditure greater than the amount allowed for such improvement by the annual tax levy.

Manner of procedure.

Sec. 2. Whenever the legislative branch of any city, town, or municipal corporation shall, by or-

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dinance passed by a vote of two-thirds of all its members, and approved by the executive of said city, town, or municipal corporation, determine that the public interest or necessity demands the acquisition, construction, or completion of any municipal buildings, bridges, water-works, water rights, sewers, or other municipal improvements, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the municipality, they may, after the publication of such ordinance for at least two weeks in some newspaper published in such municipality, and at their next regular meeting after such publication, or at an adjourned meeting, by ordinance passed by a vote of two-thirds of all its members, and also approved by the said executive, call a special election and submit to the qualified voters of said city, town, or municipal corporation, the proposition for the purpose set forth in the ordinance, and no question other than the incurring of indebtedness for said purpose shall be submitted. The ordinance calling such special election shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the proposed public improvement, the necessity for such improvement, and that bonds of the municipality shall issue for the payment of the cost of such improvement, as in such ordinance set forth, if the proposition be accepted by the qualified voters, as hereinafter provided, and shall fix the day on which such special election shall be held, the manner of holding such election, and the voting for or against incurring such indebtedness; such election shall be held as provided by law for holding such elections in such city, town, or municipal corporation; provided, however, that where by the terms or provisions of the charter of any city, town, or municipal corporation, the cost of making the proposed improvements is to be or must be paid from a special fund created by such charter for that purpose, the proposition of incurring such an indebtedness may be submitted to the qualified voters at any general election for officers of the state of California or of such city, town, or municipal corporation. [Amendment approved March 11, 1891, Stats. 1891, p. 94.]



Publication of intention to incur indebtedness.

Sec. 3. Such ordinance shall be published once a day for at least ten days, or once a week for two weeks, before the publication of the notice of the special election, in some newspaper published in such municipality. After said publication, said legislative body shall cause to be published, for not less than two weeks, in at least one of the newspapers published in such municipality, a notice of such special election, the purpose for which the indebtedness is to be incurred, the number and character of the bonds to be issued, the rate of interest to be paid, and the amount of tax levy to be made for the payment thereof. It shall require the votes of two-thirds of all the voters voting at such special election to authorize the issuance of the bonds herein provided.

Plans and estimates of improvements.

Sec. 4. It shall be the duty of the legislative branch of any municipality contemplating permanent public improvements, to first have plans and estimates of the cost of such improvements, made by a competent engineer or architect who has had successful experience in such work, before the question of incurring an indebtedness for such improvement is submitted to vote.

Limit of indebtedness.

Sec. 5. No city, town, or municipal corporation shall incur an indebtedness for public improvements which shall, in the aggregate, exceed fifteen per cent of the assessed value of all the real and personal property of such city, town, or municipal corporation. [Amendment approved March 11, 1891; Stats. 1891, p. 84.]

Character of bonds.

Section 6. All municipal bonds for public improvements issued under the provisions of this act shall be of the character of bonds known as serials, and shall be payable in gold coin or lawful money of the United States, in the manner following: One fortieth part of the whole amount of indebtedness shall be paid each and every year, on a day and at a place to be fixed by the legislative branch of the municipality issuing the bonds, together with the interest on all sums unpaid at such date. The bonds shall be issued in such de-

nominations as the legislative branch of the municipality may determine, except that no bonds shall be of a less denomination than one hundred dollars nor of a greater denomination than one thousand dollars each, payable on the day and at the place fixed in such bond, and with interest at the rate specified in the bond, which rate shall not be in excess of the legal rate of the state of California, and may be payable annually or semi-annually. Such bonds may be issued and sold by the legislative branch of the city, town, or municipal corporation, as they may determine, at not less than their face value, in gold coin of the United States, and the proceeds of such sale shall be placed in the municipal treasury to the credit of the proper improvement fund, and shall be applied exclusively to the purposes and objects mentioned in the ordinance, until such objects are fully accomplished, after which, if any surplus remains, such surplus shall be transferred to the general fund of such municipality. [Amendment approved March 1, 1893; Stats. 1893, p. 61. In effect immediately. Repealed all conflicting acts.]

[This section was in turn repealed by the act of March 9, 1897; Stats. 1897, p. 75.]

#### Rate of interest.

Sec. 7. The legislative branch of any city, town, or municipal corporation, issuing bonds under authority of this act, shall have the right to determine the rate of interest such bonds shall bear; provided, that in no case shall it exceed seven per cent per annum, and to name the date and place where such bonds and interest shall be paid; provided, that the place of payment shall be either at the office of the treasurer of the municipality, or at some designated bank in San Francisco, Chicago, New York, or Boston. The said bonds shall be signed by the executive of the municipality, and also by the treasurer thereof, and shall be countersigned by the clerk. The coupons of said bonds shall be numbered consecutively, and signed by the treasurer.

#### Tax levy.

Section 8. The legislative branch of said city, town, or municipal corporation shall, at the time of fixing the general tax levy, and in the manner

for such general tax levy provided, levy and collect annually, each year, for the term of forty years, a tax sufficient to pay the annual interest on such bonds, and also one-fortieth part of the aggregate amount of such indebtedness so incurred. The taxes herein required to be levied and collected shall be in addition to all other taxes levied for municipal purposes, and shall be collected at the same time and in the same manner as other municipal taxes are collected. [Amendment approved March 1, 1893; Stats. 1893, p. 61. In effect immediately. Repealed all conflicting acts.]

[This section was in turn repealed by the act of March 9, 1897; Stats. 1897, p. 75.]

#### Duty of corporation.

Sec. 9. It shall be the duty of the legislative branch of every city, town, or municipal corporation wherein public improvements are being made under the provisions of this act, to make all needful rules and regulations for carrying out and maintaining such improvements, to appoint all needful agents, superintendents, and engineers to properly look after the construction and operation of such public works, and in all lawful ways to protect and preserve the rights and interest of the municipality; provided, however, that in cities, towns, or municipalities operating under a charter heretofore or hereafter framed under section 8 of article xi of the constitution, and having a board of public works, all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town, or municipality. [Amendment approved March 19, 1891, Stats. 1891, p. 132.]

#### Letting of contracts.

Sec. 10. All contracts for the construction or completion of any public work or improvements, or for furnishing labor or materials therefor, as herein provided, shall be let to the lowest responsible bidder. The legislative branch of the municipality shall advertise for at least ten days, in one or more newspapers published in the municipality,

inviting sealed proposals for furnishing the labor and materials for the proposed improvements, before any contracts shall be made therefor. The said legislative branch shall have the right to require such bonds as they may deem best, from the successful bidder, to insure the faithful performance of the contract work. They shall also have the right to reject any or all bids; provided, however, that in cities, towns, or municipalities operating under a charter heretofore or hereafter framed under section 8 of article xi of the constitution, and having a board of public works, all the matters and things required in this section to be done and performed by the legislative branch of the municipality shall be done and performed by the board of public works of such city, town, or municipality. [Amendment approved March 19, 1891, Stats. 1891, p. 132.]

Additional bonds of treasurer.

Sec. 11. Whenever the legislative branch of any municipality shall, by resolution, deem it necessary, they may require the treasurer of such municipality to give additional bonds for the safe custody and care of the public funds.

Repealing acts 1885, 1887.

Sec. 12. The act approved March ninth, eighteen hundred and eighty-five, entitled "An Act to authorize municipal corporations of the fifth class, containing more than three thousand and less than ten thousand inhabitants, to obtain public water-works." and the act approved March fifteenth, eighteen hundred and eighty-seven, entitled "An Act authorizing the incurring of indebtedness by cities, towns, and municipal corporations, incorporated under the laws of this state," and all general acts, or special acts, or parts of acts, conflicting with this act, are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its passage.

The act of March 15, 1887, was also amended by act approved February 16, 1889; Statutes 1889, 14.

## TITLE 224.

## QUARANTINE.

An Act to establish a quarantine for the bay and harbor of San Francisco, and sanitary laws for the city and county of San Francisco.

[Approved April 4, 1870; 1869-70, 716.]

This act was amended March 16, 1876; 1875-6, 305.

Other special acts relating to quarantine in San Francisco: See Deering's Annotated Political Code under section 3032.

An Act to regulate quarantine, and the admission of horses, cattle, sheep, and swine into the state of California from infected districts.

[Approved March 19, 1889; 1889, 375.]

Quarantine against entry of domestic animals.

Section 1. The state board of health shall be empowered to declare quarantine against the entry of domestic animals from any state or territory, or any foreign port or country, in which contagious or infectious diseases are known to exist; said infected parts to be named in the proclamation.

Entry of, through state board of health.

Sec. 2. All domestic animals coming into the state from districts mentioned in section one must be required to enter the state at such points only as the state board of health may by proclamation determine, and designate where they must be unloaded for inspection.

Evidence of owners.

Sec. 3. All owners of domestic animals coming into this state from localities quarantined against will be required to furnish the following evidence that such animals are free from disease.

First—The affidavit of two disinterested parties, who have known such animals for a period of four months prior to the date of shipment, that they have been healthy, and exposed to no contagious

disease, and that no contagious disease is known or believed to exist in the district or country from which they came.

Second—The certificate of the county clerk of the county, that persons making such affidavit are responsible and reputable citizens of the county.

Third—The affidavit of the owner or person in charge, made at the point of entry, that such domestic animals are the identical animals described in the foregoing affidavits, and that shipment has been direct, and without unloading, except for food and water, and in cleansed and disinfected cars.

Affidavit of owners.

Sec. 4. Owners or persons in charge of domestic animals from localities not named in such proclamation must certify, under oath, that such domestic animals have been kept in one place for a period of four months immediately preceding the date of shipment (giving the name of the town and county and state, territory, or country), and have not been exposed to any contagious disease for a period of three months prior to the date of shipment.

Evidence to be submitted.

Sec. 5. All the foregoing evidence to be submitted to the state veterinarian, or an authorized inspector of the state, when permits for shipment in this state shall be issued.

Quarantined calves.

Sec. 6. Dealers' calves gathered in quarantined states or territories will be quarantined at the points of entry.

Domestic animals.

Sec. 7. Domestic animals not receiving permits for shipment, and retained in quarantine, will be held at the owner's risk and expense.

Same.

Sec. 8. All domestic animals arriving at points of entry shall be inspected free of charge to the owner.

Railway company must have permit.

Sec. 9. No railway company doing business in this state shall receive for shipment into this state any domestic animals unless accompanied by a permit signed by an authorized inspector.



Cattle, when not to enter state.

Sec. 10. No cattle shall enter this state from Texas, New Mexico, or Mexico, for grazing purposes during the months of March, April, May, June, July, August, September, October, and November in each year.

Shipment for slaughter.

Sec. 11. All cattle from those parts mentioned in section ten entering this state during the months mentioned in section ten, and intended for butchering purposes, shall pass from the point of entry into the slaughter-house yard, which yard shall be specially constructed and isolated for the purpose of receiving such stock. The stock shall be unshipped in said yard direct from the cars running into the yards for that purpose.

Character of cars.

Sec. 12. Said cattle shall moreover be shipped in specially constructed cars, which will prevent the dropping of manure and urine on the track during transit, and in unshipping such cattle the cars shall be thoroughly disinfected with carbolyzed whitewash.

When may be unshipped.

Sec. 13. All cattle entering this state for the purposes mentioned in section eleven shall only be unshipped between the point of entry and destination at places set apart by the state board of health in its proclamation; and no native stock shall be allowed at any time to enter said places; said places shall be moreover thoroughly disinfected in such manner as the state board of health may direct.

Violation of act.

Sec. 14. Any person or persons, corporations, or firms, who shall violate any of the provisions of this act, shall be liable for all damages sustained, and a fine of one thousand dollars, to be recovered in any court of competent jurisdiction, on account of any contagious or infectious disease being communicated from any diseased animal to any other animal in the neighborhood, or along the line of such transportation of such diseased animals into or through this state, or from one part thereof to another; and the existence or presence of such contagious or infectious disease

among the native cattle of this state on the same ranch with or in the vicinity of any such diseased animals, or along the line or route over which they were transported, shall be prima facie evidence that the same were affected with such disease at the time of being so removed or transported, and communicated it to such native domestic animals so affected therewith.

**Definition.**

Sec. 15. The words "domestic animals" whenever used in this act shall be construed to mean and include horses, mules, asses, cattle, sheep, goats, and swine.

Inspectors to be appointed.

Sec. 16. The state board of health are hereby authorized to appoint one inspector for each of the points of entry by railroad communication into this state, who shall reside at such point as may be designated by the state board of health, and shall receive such compensation for actual services as may be determined by said board, not to exceed one hundred dollars per month; such compensation to be paid out of any moneys in the state treasury not otherwise appropriated, upon the warrants of the controller of state drawn upon the certificate of the state board of health allowing the same.

Sec. 17. This act shall take effect immediately.

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## TITLE 225.

### RAILROADS.

A reference to acts bearing on this subject is contained in Deering's Annotated Penal Code, pp. 652, 653.

205-647  
An act granting the right of way and station grounds to the Southern California Railway Company over a portion of the asylum grounds in the county of San Bernardino.

[Approved March 9, 1893; Stats. 1893, 121.]

The purpose of the act is sufficiently indicated in the title.

An act to authorize cities and towns to grant franchises for the construction and maintenance of railroads beyond the limits of such cities or towns leading to public parks owned thereby.

The people of the state of California, represented in the senate and assembly, do enact as follows:

Sec. 1. It shall be lawful for the council, trustees, or other governing body of any city or town owning public parks situated outside of said city or town, to grant franchises for the building and operation of railroads from any point in, or at the exterior boundary of such city or town, to, in, or through such park, in the same manner and to the same extent as it now has power to grant the same for street railroads within the limits of such city or town; provided, that in addition to all other conditions, it shall be made a condition of such franchise that the fare of passengers on such road or roads shall never exceed five cents for a single trip.

Sec. 2. All railroads, except as otherwise provided in this act, authorized by this act to be so chartered shall be governed by the provisions of part four, title four, of the Civil Code of California, concerning street railroads and corporations, so far as the same shall be applicable thereto, and of all acts amendatory thereof. Also by the provisions of "An act providing for the sale of railroad and other franchises in municipalities and relative to granting of franchises," approved March twenty-third, eighteen hundred and ninety-three.

Sec. 3. This act shall take effect immediately.

[Became a law, under constitutional provision, without governor's approval, March 1, 1897; Stats. 1897, chap. 1.]

## TITLE 226.

### RAMIE CULTURE.

An act to encourage the cultivation of ramie in the state of California, to provide a bounty for ramie fiber, and to make an appropriation therefor; to appoint a state superintendent of ramie culture, and make an appropriation for his salary.

[Approved March 31, 1891; Stats. 1891, p. 283.]

The act appropriated \$5,000 for the purpose indicated.

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## TITLE 227.

### RECLAMATION DISTRICTS.

An act to provide for the issuing of bonds by reclamation districts, and the disposal thereof for reclamation and other purposes, and their payment by taxation upon the property situated in such reclamation districts.

[Stat. approved March 27, 1895; Stats. 1895, chap. clxxiv.]

The people of the state of California, represented in senate and assembly, do enact as follows:

Section 1. Whenever in the opinion of the board of trustees of any reclamation district now formed, or hereafter to be formed, under any law of this state, the cost of the works of reclamation according to the plans thereof will be too great to be raised by assessments as provided in the Political Code, said board of trustees shall order a special election to be held at some place in said district to be designated by said board of trustees, at which said special election shall be submitted to the owners of land in said district the question whether or not the bonds of said district shall be issued in an amount necessary to construct said works of reclamation, which said amount shall be estimated by said board of trustees, and stated in the order for such special election.

Sec. 2. Notice of such special election must be given by the board of trustees by posting notices thereof in at least three public places in the district, at least twenty days prior thereto, and also by publication for the same time in some newspaper published in each county in which any portion of said district may be situated, if there be a newspaper published in each of such counties, and if there is no newspaper so published, then by such publication in each county in which there is a newspaper published, and such notice must specify the time and place of holding such election, the amount of bonds proposed to be issued, and the names of three land-holders of the district to act as a board of election.

Sec. 3. At such election each holder of lands in the district shall be entitled to vote in person or by proxy, and shall have the right to cast one vote for each dollar's worth of real estate owned by him in the district, the value thereof to be determined from the next preceding assessment roll of the county where the same is situated; and the board of trustees of the district shall, prior to the election, procure from the assessor of each county where any portion of the district is situated, a list, certified by such assessor, containing a description of all the land of the district situated in such county, the name of the person to whom each tract is assessed, and the value thereof as appears from the assessment roll of said county, which said list shall be furnished to and be used by the said board of election in determining the number of votes each voter is entitled to cast. No person shall vote by proxy at such election, unless authority to cast such vote shall be evidenced by an instrument in writing, duly acknowledged and certified as grants of real property, and filed with the board of election. The ballots cast at such election shall contain the words "Bonds—Yes," or the words "Bonds—No," and also the name of the person casting the ballot, with the number of votes cast by him; and a list of the ballots cast shall be made by the board of election, containing the name of the voter, and if the ballot be cast by proxy, the name of the person casting it, the number of votes cast, and whether the same be cast for or against the issuing of the bonds.

Sec. 4. If the persons, or any of them, appointed and specified in the notice of election as the board of election fail to attend at the time and place appointed for the election, the voters present at the time for opening the polls may appoint any land-holder of the district then present to fill the place of any absent member thereof. Each member of such board of election must, before entering upon his duties as such, taken an official oath as such member of the board of election, which said oath may be administered by any officer authorized to administer oaths, or by any land-holder in the district. The polls shall be kept open for the reception of votes from ten o'clock A. M. until four o'clock P. M. At the close of the polls the board of election shall at once proceed to canvass the votes, and declare the result and forward a certificate, showing the number of votes cast for and against the issuing of bonds, to the board of supervisors of the county where the district was formed, and deliver a duplicate thereof to the board of trustees of the district, and shall also deliver to the said board of trustees all ballots cast at such election, and all documents and papers used at such election.

Sec. 5. If a majority of the votes cast at such election are in favor of the issuance of bonds, the board of trustees of the district shall cause bonds in the amount stated in the order for election to be issued and placed in the custody of the treasurer of the county in which the district was formed. Said bonds shall be of the denomination of one hundred dollars each, shall be negotiable in form, signed by the president of the board of trustees of the district, and the chairman of the board of supervisors of said county, and attested by the clerk of said board of supervisors, and the seal of said board of supervisors, shall be numbered consecutively as issued, and bear date at the time of their issue, and shall express on their face that they were issued by authority of this act, stating its title and date of approval, and the date of the election at which their issuance was authorized. Said bonds shall bear interest at the rate of seven per cent. per annum, payable semi-annually on the first day of January and the first day of July in each year, at the office of said county treasurer, upon the presentation of the



proper coupons therefor. Coupons for each installment of interest shall be attached to said bonds, and shall be numbered, signed, and attested, in the same manner as the bond. The principal of said bonds shall be paid as follows, to wit: Ten per cent. of the whole amount of bonds issued, according to their consecutive numbers, shall be paid in ten years from the date of their issue, at the office of said county treasurer, and ten per cent. thereof each succeeding year thereafter, until all are paid. If any bond shall not be presented for payment when the same becomes due, it shall cease to draw interest; but if presented at such time, and not paid for want of funds, the said county treasurer shall so indorse it, and thereafter such bond shall draw interest until paid, at said rate of seven per cent. per annum, payable semi-annually.

Sec. 6. The treasurer of said county shall place the bonds prepared pursuant to this act to the credit of said district, and may at any time sell any of said bonds for the best price obtainable therefor, but in no event for less than the face value of said bond, and the accrued interest thereon. Any money derived from the sale of said bonds by said county treasurer shall be placed in the treasury to the credit of said district, and a proper record of such transaction be placed upon the books of said treasurer.

Sec. 7. The board of trustees of said district may draw orders upon the said county treasurer, payable in bonds or money in the proportion and to the amount therein named, to pay for labor or services performed for, or materials or property furnished to, said district, for the purpose of constructing the reclamation works thereof, and the expenses necessarily incident to maintaining the same, and the contingent expenses of said district, which said orders shall be approved by the board of supervisors of the county where such district was formed, and thereafter be paid by said treasurer in the manner therein provided for, if such bonds or money then remaining in said treasury to the credit of said district be sufficient to pay the same.

Sec. 8. The principal of said bonds, and the interest thereon, shall be paid by revenue derived from a tax levied upon the assessable real prop-

erty of the district, and the board of supervisors of the county wherein said district was formed, at the time of making the levy of taxes for county purposes, must levy a tax for that year, upon the taxable real property in such district, sufficient to pay the interest which may become due upon said bonds during such year, and if any portion of the principal of said bonds will become due during such year, then also in an amount sufficient to pay such portion of said principal. All taxes so levied shall be computed and entered on the assessment roll of the county where such land may be situated, by the county auditor, and collected by the tax collector, at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of said district.

Sec. 9. When such district is situated partly in different counties, the assessor of said county, or counties, other than the county where the district was formed, and in which any portion of such district may be situated, shall, prior to the time when the board of supervisors meets to make the levy for county purposes in each year, certify to the board of supervisors of the county where such district was formed, a statement of the total value of all the taxable real property of said district, situated in his county; and when such board of supervisors shall have determined the rate of taxation necessary to be levied upon such property, the clerk of said board of supervisors shall certify the same, under the seal of said board, to the auditor of any county other than the county where such district was formed, and such auditor shall thereupon compute the tax, and enter the same upon the assessment roll of said county. When any taxes shall have been collected under any of the provisions of this act, and placed in the treasury of any county other than the one in which said district was formed, the treasurer of such county must, when requested so to do by the board of trustees of said district, forward all money in such treasury to the county treasurer of the county in which such district was formed, who shall receive and receipt for the same, and place such money in the treasury of such county to the credit of said district.

Sec. 10. No assessor, tax collector, treasurer, or

clerk shall receive any fee for any service required to be performed by them under the provisions of this act. All expenses necessarily incurred in carrying out the provisions of this act shall be paid out of any money to the credit of the district for which the services are performed in the treasury of the county where the district was formed, upon the order of the board of trustees of said district, approved by the board of supervisors of said county.

Sec. 11. This act shall take effect and be in force from and after its passage.

In addition, the following acts may be referred to:

An act to provide for the proper distribution, in the several county treasuries, of funds arising from the sale of swamp lands.

[Approved March 28, 1874; 1873-4, 770.]

An act to subject certain reclamation districts in the state to the provisions of the Political Code.

[Approved March 10, 1885; 1885, 77.]

An act relative to the powers of the boards of supervisors of the counties of Yolo and Solano.

[Approved March 25, 1874; 1873-4, 602.]

An act to facilitate the equalization of assessments in reclamation districts.

[Approved March 7, 1881; Stats. 1881, 69.]

An act providing for appeals from orders forming reclamation or swamp-land districts, setting off lands from such districts, or consolidating districts.

[Approved April 16, 1880, 119 (Ban. ed. 385).]

## TITLE 228.

## RECORDS.

Acts relating to, see Code of Civil Procedure, Appendix, title, Records, p. 865.

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## TITLE 229.

## RIVERSIDE COUNTY.

An act to create the county of Riverside. classify it, define its boundaries, provide for its organization, and the appointment, election of officers, the location of county seat by election, and the adjustment and fulfillment of certain rights and obligations arising between such county and certain other counties.

[Approved March 11, 1893; Stats. 1893, p. 158.]

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## TITLE 230.

## ROADS AND HIGHWAYS.

See Highways; Parks.

The Political Code, secs. 2618 et seq., contains the general road law of the state. And section 2 of the highway act of 1883 and all laws in conflict with that act, were repealed. But by section 2757 of that code, as originally adopted, the provisions of any statute then in force in any of the counties, in relation to roads and highways, were not to be affected by the code except when such special laws should be repealed, in which case the provisions of the code were to apply.

A reference to special laws relating to this subject is contained in Deering's Annotated Penal Code, pp. 653-656.

## TITLE 231.

## RODEOS.

The Political Code, sec. 19, and the Penal Code, sec. 23, continued in force all acts regulating and in relation to rodeos.

These acts are contained in Deering's Annotated Penal Code, pp. 656-659.

*Ref. Penal*

## TITLE 232.

## SACRAMENTO COUNTY AND CITY.

A reference to special laws relating to Sacramento city and county is contained in Deering's Annotated Penal Code, pp. 659-664.

See in addition to those there referred to: An act to amend section six of an act to provide for the redemption of the funded indebtedness, app. March 9, 1887; Stats. 1887, p. 75.

An act to amend secs. 1, 5, 7, 8, 10 and 11 of an act to redeem the funded indebtedness of Sacramento, approved March 19, 1889; Stats. 1889, p. 325.

An act entitled An act amendatory of and supplementary to an act approved April 25, 1863, entitled an act to incorporate the city of Sacramento, approved March 6, 1872, contained in the statutes of 1889, p. 148.

## TITLE 233.

## SAN BENITO COUNTY.

A reference to the local acts relating to San Benito county is contained in Deering's Annotated Penal Code, p. 664.

An act to create the county of San Benito, to establish the boundaries thereof, and to provide for its organization.

[Approved February 12, 1874; 1873-4, 95.]

This act was amended March 11, 1887; Stats. 1887, p. 103.

An act supplementary to the foregoing act of February twelfth, eighteen hundred and seventy-four.

[Approved March 18, 1874; 1873-4, 428.]

This act provided for a board of commissioners to determine the amount of indebtedness as between San Benito and Monterey counties, and for ways and means to pay the same by the issue of bonds by the county found to be indebted. It also provided for the terms of the district, county, and probate courts in San Benito county.

It was amended by act of March 10, 1876; 1875-6, 177, in so far as related to the commissioners, issue of bonds, and compensation of commissioners.

An act directing the transcription of all matters of record in the offices of the county clerks and county recorders of the counties of Fresno and Merced, concerning real estate in the territory taken from those counties and added to that of the county of San Benito by act of the legislature entitled "An act to amend an act to create the county of San Benito, to establish the boundaries thereof, and to provide for its organization," approved February 12, 1874, providing for a change and the establishment of the boundaries thereof, the same to include therein portions of the counties of Fresno and Merced, and to provide for the payment of the portions of the indebtedness of said counties equitably chargeable to San Benito county, approved March 11, 1887.

[Approved March 11, 1889; 1889, 107.]



## TITLE 234.

## SAN BERNARDINO COUNTY.

A reference to local acts relating to San Bernardino county is contained in Deering's Annotated Penal Code, pp. 665-667.

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## TITLE 235.

## SAN DIEGO COUNTY.

A reference to special laws relating to San Diego county is contained in Deering's Annotated Penal Code, pp. 665-667.

See in addition to the acts there referred to, an act to amend the act to reincorporate the city, approved March 16, 1889; Stats. 1889, p. 302.

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## TITLE 236.

## SAN FRANCISCO CITY AND COUNTY.

See ante, Home of the Inebriates.

A reference to the special acts relating to San Francisco is contained in Deering's Annotated Penal Code, p. 665 et seq.

See also an act relating to interpreters in the Code of Civil Procedure, Appendix, title, Interpreters.

In addition see the following: Amendments to the water-front act, approved March 19, 1889; Stats. 1889, p. 379, approved March 31, 1891; Stats. 1891, p. 233. and approved March 26, 1895, Statutes 1895, p. 194.

There are also a number of acts relating to cities and counties of the first class as follows:

Act prescribing judgments against cities over 100,000, see ante, title Judgments; act conferring Gen. Laws—87.

powers upon cities over 100,000 to condemn land to erect building for municipal purposes, app. March 27, 1895, Stats. 1895, p. 242; see ante Public Works; act relating to assistants to treasurers in cities over 200,000, see Appendix to Pol. Code, tit, Treasurers; acts relating to deputy county clerks in cities and counties over 120,000, see Political Code, Appendix, title County Clerks; assistants to city and county attorneys, see Political Code, p. 958; act authorizing public market, see ante, title Public Market; assistants to district attorney, see Political Code, p. 960; payment of fees in, see ante, title Fees; secretary for superior judges, act providing for, see Code of Civil Procedure, p. 800; levy and collection of school taxes in cities of first class, March 14, 1891, see post, title Schools.

Act of March 4, 1897, increasing the efficiency of the fire department in cities of the first class: See Political Code, Appendix, title, Fire Department.

Act fixing salaries of officers of fire department in cities of first class: See Political Code, Appendix, title, Fire Department.

Act to allow cities of first class to build municipal hospitals, app. Feb. 16, 1897, Stats. 1897, ch. xiii.

Act to repeal the act in relation to the collection of taxes, app. March 28, 1895, Stats. 1895, ch. 217: See post, title, Taxation.

An act to amend an act entitled "An act to provide for increasing the law library of the corporation known as the San Francisco Law Library, and to secure the use of the same to the courts held at San Francisco, the bar, the city and county government, and the people of the city and county of San Francisco," approved March 9, 1870.

[Approved April 12, 1880; 1880, 40 (Ban. ed. 191).]

The original act of March 9, 1870, will be found in Stats. 1869-70, 325.

## TITLE 237.

SANITARY DISTRICTS. *Uncond*

"An act to provide for the formation, government, operation, and dissolution of sanitary districts in any part of the state, for the construction of sewers, and other sanitary purposes; the acquisition of property thereby; the calling and conducting of elections in such districts; the assessment, levy, collection, custody, and disbursement of taxes therein; the issuance and disposal of the bonds thereof, and the determination of their validity and making provision for the payment of such bonds, and the disposal of their proceeds, and for empowering sanitary boards to provide in other respects for the good order and welfare of sanitary districts." This title was amended in 1895, Stats. 1895, ch. 95.

[Approved March 31, 1891; Stats. 1891, p. 223.]

Section 1. Whenever twenty-five persons in any county of the state shall desire the formation of a sanitary district within the county, they may present to the board of supervisors of such county a petition, in writing, signed by them, stating the name of the proposed district, and setting forth the boundaries thereof, and praying that an election be held as provided by this act. Each of the petitioners must be a resident and freeholder within the proposed district.

Sec. 2. When such petition is presented as above provided, the board of supervisors must, within thirty days thereafter, order that an election be held as provided by this act. The order must fix the day of such election, which must be within sixty days from the date of the order, and must show the boundaries of the proposed district, and must state that at such election persons to fill the offices provided by this act, viz., a sanitary assessor, and five members of the sanitary board, will be voted for. This order shall be entered in the minutes of the board, and shall be conclusive evidence of the due presentation of a proper petition, and of the fact that each of the petitioners was, at the time of the signature and presentation of such petition, a resident and freeholder within the limits of the proposed district.

Sec. 3. A copy of such order shall be posted for four successive weeks prior to the election, in three public places within the proposed district, and shall be published for four successive weeks prior to the election in some newspaper published in the proposed district, if there be one, and if not, in some newspaper published in the county. It shall be sufficient if the order be published once a week.

Sec. 4. The board of supervisors, at any time prior to the election, shall select one polling place within the proposed district, and make all suitable arrangements for the holding of such election. The ticket shall contain the words "For a sanitary district," or "Against a sanitary district," as the case may be, and the name of a person for sanitary assessor, and the names of five persons for members of the sanitary board. Such election shall be conducted in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election above provided for. If a majority of the votes cast at such election shall be in favor of a sanitary district, the board of supervisors shall make and cause to be entered in the minutes an order that a sanitary district of the name and with the boundaries stated in the petition (setting forth such boundaries) has been duly established, and said order shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided for by this act or by law, and of the existence and validity of the district. If a majority of the votes cast shall be against a sanitary district, the board shall, by order, so declare; no other proceedings shall be taken in relation thereto until the expiration of one year from the presentation of the petition.

Sec. 5. Every sanitary district formed under the provisions of this act shall have power to have and use a common seal, alterable at the pleasure of the sanitary board; to sue and be sued by its name; to construct and maintain, and keep clean such sewers and drains as in the judgment of the sanitary board shall be necessary or proper, and for this purpose to acquire by purchase, gift,

devise, condemnation proceedings, or otherwise, such real and personal property and rights of way, either within or without the limits of the district, as in the judgment of the sanitary board shall be necessary or proper, and to pay for and hold the same: to make and accept any and all contracts, deeds, releases, and documents of any kind which, in the judgment of the sanitary board, shall be necessary or proper to the exercise of any of the powers of the district, and to direct the payment of all lawful claims and demands against it; to issue bonds as hereinafter provided, and to assess, levy, and collect taxes to pay the principal and interest of the same, and the cost of laying and the expense of maintaining any sewer or sewers that may be constructed subsequent to the issuance of said bonds, or any lawful claims against said district, and the running expenses of the district; to employ all necessary agents and assistants, and pay the same; to lay its sewers and drains in any public street or road of the county, and for this purpose enter upon the same and make all necessary and proper excavations, restoring the same to proper condition; but in case such street or road shall be in an incorporated city or town, the consent of the lawful authorities thereof shall first be obtained; to make and enforce all necessary and proper regulations for the removal of garbage, and the cleanliness of the roads and streets of the district, and for the purpose of guarding against the spread of contagious and infectious diseases, and for the isolation of persons and houses affected with such diseases, and for the notification of the other inhabitants of the existence thereof, and all other sanitary regulations not in conflict with the constitution and laws of the state; to make and enforce all necessary and proper regulations for suppressing disorderly and disreputable resorts, and houses of ill-fame within the district, and to determine the qualification of persons authorized to sell liquors at retail, and from and after the passage of this act no license to keep a saloon, or sell liquors at retail, shall take effect or be operative within any sanitary district unless the same be approved by the sanitary board of the district; to impose fines, penalties, and forfeitures for any and all violations of its regulations or orders, and to fix the penalty thereof by fine or imprisonment, or both:

but no such fine shall exceed the sum of one hundred dollars, and no such imprisonment shall exceed one month; to call, hold, and conduct all elections necessary or proper after the formation of the district; to prescribe, by order, the time, mode, and manner of assessing, levying, and collecting taxes for sanitary purposes, except as otherwise provided herein; to compel all residents and property owners within the district to connect their houses and habitations with the street sewers and drains; and generally to do and perform any and all acts necessary or proper to the complete exercise and effect of any of its powers, or the purpose for which it was formed. [Amendment approved March 26. 1895; Stats. 1895, chap. xcy. In effect immediately.]

Sec. 6. The officers of the district shall be a sanitary assessor and five members of the sanitary board.

Sec. 7. There shall be an election for sanitary assessor on every even-numbered year in which members of the sanitary board are elected, and at the same time, place, and manner; and the person then elected shall hold office for two years next thereafter, and until the election and qualification of his successor. The person elected assessor at the election at which the district was formed shall hold office until the election and qualification of his successor; provided, that if at any time a vacancy occur in the office of assessor, the sanitary board shall appoint a suitable person to fill such vacancy until the next election at which an assessor may be elected under the provisions of this act.

Sec. 8. It shall be the duty of the sanitary assessor to make out, before the first Monday in July of each year, a list of all the tangible real and personal property within the district. Such list shall contain a brief and general description of the property, an assessment of the value thereof, the name or names of the owner or owners, and such other matters as may be ordered by the sanitary board and such matters as shall be necessary to make such list conform to the provisions of the general laws of the state of California. The land shall be assessed separately from the improvements thereon. No mistake in the name of the owner of any of the real or personal property



assessed, or any informality in the description, or in other parts of the assessment, shall invalidate the same. The sanitary assessor shall verify said list by his oath before some officer authorized to administer oaths, and shall deposit the same with the sanitary board on the first Monday of July of each year, or as soon thereafter as is practicable. He shall have power to administer all oaths and affirmations necessary or proper in the performance of his duty as assessor, and shall receive such compensation as shall be fixed by the order of the board. He shall also perform such further duties and do such further acts as may be ordered or required by the sanitary board.

Sec. 9. There shall be an election for two members of the sanitary board in every even-numbered year, beginning with the second even-numbered year after the election at which the district was organized, and the two members then to be elected shall hold office until the election and qualification of their successors in the next even-numbered year; and there shall be an election for three members of the sanitary board in every odd-numbered year, beginning with the second odd-numbered year after the election at which the district was organized, and the three members then to be elected shall hold office until the election and qualification of their successors in the next odd-numbered year. The five members elected at the election at which the district was organized shall, at their first meeting, or as soon thereafter as may be practicable, so classify themselves, by lot, that two of them shall go out of office in the second even-numbered year after the election at which the district was organized, and upon the election and qualification of their successors, as provided by this act, and three of them in the second odd-numbered year after the election at which the district was organized, and upon the election and qualification of their successors, as provided by this act. All elections for officers after the formation of the district shall be on the first Monday after the first Tuesday in the month of March. The members of the sanitary board shall receive no compensation whatever, either for general or special services.

Sec. 10. The sanitary board shall be the governing power of the district, and shall exercise all the powers thereof, except the making of an

assessment list in the first instance, as herein provided. At its first meeting, or as soon thereafter as may be practicable, the board shall choose one of its members as president, and another of its members as secretary; and all contracts, deeds, warrants, releases, receipts, and documents of every kind shall be signed in the name of the district by its president, and shall be countersigned by its secretary. The board shall hold such meetings, either in the day or in the evening, as may be convenient. In case of the absence or inability to act of the president or secretary, the board shall, by order entered upon the minutes, choose a president pro tem., or secretary pro tem., or both, as the case may be.

Sec. 11. The sanitary board shall sit as a board of equalization as soon as it receives the assessors' list, or as soon thereafter as practicable, and shall continue in session as such board, with convenient intermissions, until the entire list furnished by the assessor shall have been examined and rectified, if rectification be necessary. The board shall have power to hear complaints as to the proceedings of the assessor, and to adjudicate and determine the controversy thereon, and may of its own motion raise an assessment, after such reasonable notice to the party whose assessment is to be raised, as may be ordered by the board. After the examination and rectification of the assessor's list shall have been completed, the board shall, by resolution, fix the rate of taxation for sanitary purposes, designating the number of cents on each one hundred dollars to be levied for each fund, and shall designate the fund into which the same shall be paid; but no more than fifteen cents on each one hundred dollars shall be levied for all the sanitary purposes of any one year, besides what shall be required for the payment of the principal and interest of such year upon outstanding bonds. After the entry in the minutes of the resolution fixing the rate of taxation, the sanitary board shall cause the assessor to compute the amount of the tax upon each piece of real and personal property, and enter the same upon the assessment list in a suitable place. The list, when so completed, shall be verified by the assessor and signed by the president and secretary; and the amount of the tax shall thereupon become a lien upon the property

upon which it is assessed, and shall have the effect of a judgment against the person of the owner thereof, and every such lien shall have the force and effect of an execution duly levied against all the property of the delinquent; and the judgment shall not be deemed satisfied or the lien extinguished until the taxes are paid or the property sold to satisfy the same, and no statute of limitations shall apply; but no more than seventy-five thousand dollars of bonds shall be voted for or issued at any one time, nor shall the bonded indebtedness of the district ever exceed the sum of seventy-five thousand dollars at any one period, whether it be made up of one issue of bonds or of several issues.

Sec. 12. On or before the first Monday in July of each year, the board shall transmit, or cause the assessor to transmit, a duplicate of the list so made to the tax collector of the county, who shall collect the taxes shown by said list to be due, in the same manner as he collects the county taxes, and all the provisions of the laws of the state as to the collection of taxes and delinquent taxes, and the enforcement of the payment thereof, so far as applicable, shall apply to the collection of taxes for sanitary purposes; and said tax collector and the sureties on his official bond shall be responsible for the due performance of the duties imposed on him by this act; provided, that the sanitary board may, in its discretion, direct the district attorney of the county to commence and prosecute suits for the collection of the whole or any portion of the delinquent taxes; and it shall be the duty of the district attorney to carry out such directions of the sanitary board, and he, and the sureties upon his official bond shall be responsible for the due performance of the duty imposed upon him by this act; and provided further, that the sanitary board may, at any time, by order entered in its minutes, provide a system for the collection of delinquent taxes, or make any change in the manner of their collection, which as to such taxes shall have the force of law. All money collected for sanitary purposes by the district attorney under this act shall be at once paid to the county treasurer.

Sec. 13. The tax collector shall pay over to the county treasurer all moneys collected by him for

sanitary purposes, as fast as the same shall be collected, and the said treasurer shall keep the same in the county treasury, as follows: In a fund called the bond fund for sanitary district (naming it) he shall place and keep the moneys levied by the sanitary board for such fund; and no part of the money in this fund shall be transferred to any other fund, or be used for any other purpose than the payment of the principal and interest of the bonds of the sanitary district, so long as any such bonds shall be unpaid; in a fund called the running expense of sanitary district (naming it) he shall place and keep the moneys levied by the sanitary board for such fund. The whole or any part of the money in the running expense fund may be transferred to the bond fund, or to the other fund hereinafter provided for, upon the order of the sanitary board, and it shall be the duty of the treasurer to comply with such order. The treasurer shall pay out moneys from either of said funds, or from the fund hereinafter mentioned, only upon the written order of the sanitary board, signed by the president and countersigned by the secretary, which order shall specify the name of the person to whom the money is to be paid and the fund from which it is to be paid, and shall state generally the purpose for which the payment is made, and such order shall be entered in the minutes of the sanitary board. The treasurer shall keep the order as his voucher, and shall keep a specific account of his receipts and disbursements of money for sanitary purposes. The treasurer and sureties upon his official bond shall be liable for the due performance of the duties imposed upon him by this act. The treasurer shall keep the money arising from the sale of bonds in the fund hereinafter mentioned.

Sec. 14. At any time after the district is organized, the sanitary board may, by order entered in the minutes, call an election for the purpose of determining whether bonds shall be issued for the construction of sewers. Such order shall fix the day of the election and shall specify the amount of money to be raised, and shall state in general terms the purpose for which it is to be raised. A copy of such order shall be posted for four successive weeks prior to the election in at least three public places within the district, and

shall be published for four successive weeks prior to the election in some newspaper published within the district, if there be one, and if not, in some newspaper published in the county. It shall be sufficient if the order be published once a week.

Sec. 15. At any time prior to the day fixed for the election, the board shall select one, and may select two, polling places within the district, appoint officers of election, and make all necessary and proper arrangements for holding the election. The tickets shall contain the words "For the issuance of bonds as proposed by the sanitary board, or "Against the issuance of bonds as proposed by the sanitary board." The election shall be conducted in accordance with the general election laws of the state, so far as the same shall be applicable, except as herein otherwise provided. Every qualified elector resident within the district for the length of time necessary to enable him to vote at a general election shall be entitled to vote at the election above provided for. After the votes shall have been announced, the ballots shall be sealed up and delivered to the secretary or president of the sanitary board, which shall, as soon as practicable, proceed to canvass the same, and shall enter the result upon its minutes. Such entry shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided by this act or by law, and of the facts stated in such entry. If, at such election, two thirds of the votes cast be in favor of the issuance of bonds, as proposed by the sanitary board, the said board shall thenceforth have full power and authority to issue and dispose of bonds as proposed in the order calling the election. [Amendment approved March 9, 1893; Stats. 1893, p. 88. In effect immediately.]

Sec. 16. Such bonds shall be in sums of one thousand dollars each, payable in gold coin of the United States, and shall bear interest at the rate of five per cent per annum, payable semi-annually, at dates to be fixed by the board, and specified, respectively, in the bonds and coupons, payable in like gold coin. The principal of each bond shall be payable in installments of one-twentieth of the face of the bond, and one of such installments shall fall due at the end of each year, so that the whole principal shall be paid in twenty years from the issuance of the bond. Each bond shall

refer to this act by its title and the date of its approval by the governor, and shall be payable to bearer; but every person into whose hands any bond or coupon shall come shall be deemed to have notice of any and all payments that have actually been made thereon. Each bond shall be signed by the president and countersigned by the secretary of the sanitary board. The bonds shall be numbered consecutively, beginning with the number one. Each coupon shall refer to its bond by number, and shall be signed by the president and countersigned by the secretary. No bond shall be redeemed before it is due without the consent of the holder thereof, nor shall the rate of interest on any bond be reduced or the bonds be refunded without the consent of the holder thereof. When any payment of any installment of interest is made, the coupon therefor is directed to be surrendered to the county treasurer, and to be canceled by him; and when any installment of principal is paid, such payment is directed to be indorsed upon the bond by such treasurer; and when the whole principal of any bond is paid, the bond is directed to be surrendered to the treasurer and to be by him canceled. The bonds must be disposed of by the sanitary board in such manner and in such quantities as may be determined by said board, in its discretion, but no bond must be disposed of for less than its face value. The proceeds of such sales shall be deposited with the county treasurer, and shall be by him placed in a fund to be called the sewer construction fund of — sanitary district (naming it). The money in such fund shall be used for the purpose indicated in the order calling the election upon the question of the issuance of the bonds, and for no other purpose; provided, that if after such purposes are entirely fulfilled any balance remain in such fund, such balance may, upon the order of the sanitary board, be transferred to either of the other funds provided by this act. If the result of the election be against the issuance of bonds, no other election upon the question shall be called or held for the period of one year.

Sec. 17. It is hereby made the duty of the sanitary board to levy, each year, upon the property within the district, a sufficient tax to pay off the interest accruing upon said bonds for the respective year, as it falls due, and also to pay one-



twentieth of the principal of said bonds, so that the entire amount of principal and interest of said bonds shall be paid within twenty years from the date of the issuance of said bonds; and it is hereby made the duty of the tax collector, or such other person as may be charged with the duty of collecting the sanitary taxes, to collect the said taxes so to be levied, and the duty of the sanitary board to order the same to be paid, in manner and form as provided by this act, and the duty of the county treasurer to pay the same. If, for any reason, any portion of the tax for any year remains unpaid, and in consequence thereof any portion of the interest or principal due for any year remains unpaid, the same shall be added to the levy for the next year, and be collected and paid accordingly. The payment of the whole amount of the principal and interest of all of said bonds, within twenty years from their issuance, is hereby made the imperative duty of the district; and, if necessary for that purpose, a special tax shall be levied; and it is hereby made the duty of every officer and board to do his respective part towards the levy, collection, and payment of such tax; and mandamus shall issue from the superior court of the county in which the district is situated, or from any other competent court, upon application of any party interested, for the purpose of compelling the performance of the duty imposed by this act upon any and all officers or boards.

Sec. 18. If the result of any election upon the question of the issuance of bonds be in favor of such issuance, the sanitary board may, in their discretion, before such issuance, commence, in the superior court of the county, a special proceeding to determine their right to issue such bonds and the validity thereof, similar to the proceeding in relation to irrigation bonds, provided for by an act entitled "An act supplemental to an act entitled 'An act to provide for the organization and government of irrigation districts, and to provide for the acquisition of water and other property, and for the distribution of water thereby for irrigation purposes,' approved March seventh, eighteen hundred and eighty-seven, and to provide for the examination, approval, and confirmation of proceedings for the issue and sale of bonds issued

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under the provisions of said act"; and all the provisions of said act shall apply to and govern the proceedings so to be commenced by the sanitary board, so far as the same are applicable; and said proceedings shall be in accordance with the provisions of said act, so far as the same are applicable, and the judgment in such proceedings shall have the same effect as a judgment in relation to irrigation bonds under the provisions of said act.

Sec. 19. Any general regulation of the sanitary board shall be by order entered in the minutes, but such order shall be published once a week for one week in some newspaper published within the district, if there be one, and if there be no such newspaper then such order shall be posted for one week in three public places within the district. A subsequent order of the board that such publication or posting has been duly made shall be conclusive evidence that such publication or posting has been properly made. Orders not establishing a general regulation need not be published or posted (unless otherwise provided by this act,) but shall be entered in the minutes, and the entry shall be signed by the secretary of the board. A general regulation shall take effect immediately upon the expiration of the week of publication or posting thereof. An ordinary order shall take effect upon the entry in the minutes.

Sec. 20. The board may instruct the district attorney of the county to commence and prosecute any and all actions and proceedings necessary or proper to enforce any of its regulations or orders, and may call upon said district attorney for advice as to any sanitary subject; and it shall be the duty of the district attorney to obey such instructions and to give advice when called on by the board therefor. The board may at any time employ special counsel for any purpose. All fines for the violation of any regulation or order of the sanitary board shall, after the expenses of the prosecution are paid therefrom, be paid to the secretary of the board, who shall forthwith deposit the same with the county treasurer, who shall place the same in the running expense fund of the district.

Sec. 21. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called by the

sanitary board upon the question of dissolution. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, the property of the district shall vest in any incorporated city or town that may at said time be in occupation of a considerable portion of the territory of the district, and if there be no such incorporated city or town, then the property shall be vested in the board of supervisors of the county until the formation of such a city or town; provided, however, that if at the time of such election to dissolve such district there be any outstanding bonded indebtedness of such district, then, in such event, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such indebtedness; and from the time such district is thus dissolved until such bonded indebtedness, with the interest thereon, is fully paid, satisfied, and discharged, the legislative authority of said incorporated city or town, or the board of supervisors, if there be no such incorporated city or town, is hereby constituted ex officio the sanitary board of such district; and it is hereby made obligatory upon such board to levy such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness and the interest thereon, as herein provided:

Sec. 22. The sanitary board shall have power, at any time after main sewers or other sewers are laid, to order and contract for the construction of a sewer in any street of the district where a sewer is not already constructed, and to provide by such order that the cost thereof shall be borne by the property fronting along the line of the sewer so ordered; and in case such order is made, the said cost shall be assessed on the lots and lands fronting on such sewer, according to the provisions of the general law of the state in relation to street improvements in incorporated cities and towns, in force at the time such assessment is made, so far as the same shall be applicable, and the lien of the assessment so made shall be enforced by action to be brought by the district attorney of the county, in the name of the sanitary district; provided, that nothing in this section contained shall be construed to take away or

impair the power of the board to provide that the expenses of the sewers above provided for shall be borne by the whole district, as in other cases.

Sec. 23. All acts and parts of acts in conflict with this act, or any portion thereof, are hereby repealed.

Sec. 24. This act shall take effect immediately.

An Act to provide for the proper sanitary condition of factories and workshops, and the preservation of the health of the employees.

[Approved February 6, 1889; 1889, 3.]

Sanitary condition of factories.

Section 1. Every factory, workshop, mercantile or other establishment, in which five or more persons are employed, shall be kept in a cleanly state and free from the effluvia arising from any drain, privy, or other nuisance, and shall be provided, within reasonable access, with a sufficient number of waterclosets or privies for the use of the persons employed therein. Whenever the persons employed as aforesaid are of different sexes, a sufficient number of separate and distinct waterclosets or privies shall be provided for the use of each sex, which shall be plainly so designated, and no person shall be allowed to use any watercloset or privy assigned to persons of the other sex.

Ventilation of factories.

Sec. 2. Every factory or workshop in which five or more persons are employed shall be so ventilated while work is carried on therein that the air shall not become so exhausted as to be injurious to the health of the persons employed therein, and shall also be so ventilated as to render harmless, as far as practicable, all the gases, vapors, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein, that may be injurious to health.

Places for work condemned.

Sec. 3. No basement, cellar, underground apartment, or other place which the commissioner of the bureau of labor statistics shall condemn as unhealthy and unsuitable, shall be used as a

workshop, factory, or place of business in which any person or persons shall be employed.

Protection to employees.

Sec. 4. If in any factory or workshop any process or work is carried on by which dust, filaments, or injurious gases are generated or produced that are liable to be inhaled by the persons employed therein, and it appears to the commissioner of the bureau of labor statistics that such inhalation could to a great extent be prevented by the use of some mechanical contrivance, he shall direct that such contrivance shall be provided, and within a reasonable time it shall be so provided and used.

Female employees to be furnished seats.

Sec. 5. Every person, firm, or corporation employing females, in any manufacturing, mechanical, or mercantile establishment, shall provide suitable seats for the use of the females so employed, and shall permit the use of such seats by them when they are not necessarily engaged in the active duties for which they are employed.

Penalty.

Sec. 6. Any person or corporation violating any of the provisions of this act shall be punished by a fine of not less than fifty nor more than one hundred dollars for each offense.

Duty of commissioner of labor statistics.

Sec. 7. It shall be the duty of the commissioner of the bureau of labor statistics to enforce the provisions of this act.

Sec. 8. This act shall take effect and be in force from and after its passage.

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## TITLE 238.

### SAN JOAQUIN COUNTY.

A reference to local acts relating to San Joaquin County is contained in Deering's Annotated Penal Code, pp. 680-682.

## TITLE 239.

## SAN LUIS OBISPO COUNTY.

A reference to local acts relating to San Luis Obispo county is contained in Deering's Annotated Penal Code, pp. 682-684.

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## TITLE 240.

## SAN MATEO COUNTY.

A reference to the acts relating to San Mateo county is contained in Deering's Annotated Penal Code, pp. 684, 685.

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## TITLE 241.

## SANTA BARBARA COUNTY.

A reference to local laws relating to Santa Barbara county is contained in Deering's Annotated Penal Code, pp. 685, 686.

The act of March 30, 1878, to amend the act to incorporate the city of Santa Barbara was repealed by act approved March 11, 1887; Stats. 1887, p. 108.

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## TITLE 242.

## SANTA CLARA COUNTY.

A reference to local acts affecting Santa Clara county is contained in Deering's Annotated Penal Code, pp. 686-688.

In addition, see an act to amend an act entitled "An act to incorporate the city of San Jose," approved March 11, 1891; Stats. 1891, p. 97.



## TITLE 243.

## SANTA CRUZ COUNTY.

A reference to local acts relating to Santa Cruz is contained in Deering's Annotated Penal Code, pp. 689, 690.

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## TITLE 244.

## SCHOOL OF INDUSTRY. ✓

Acts relating to: See Penal Code, Appendix, title "School of Industry," p. 611. 2121

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TITLE 245. *Rev Pol*

## SCHOOL OF REFORM. ✓

Acts relating to: See Penal Code, Appendix, title "School of Reform," p. 627.

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TITLE 246. *do*

## SCHOOLS.

See Political Code, Appendix, title Normal Schools.

An act to provide for the care and security of the state service of school text-books, by the erection of a fire-proof warehouse to be used for the storage of the same, authorizing the appointment of a storekeeper to have the care and custody of said text-books, and appropriating money to pay the expenses of erecting said warehouse.

[Approved March 15, 1887; 1887, 131.]

Ten thousand dollars was appropriated for the purposes indicated.

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An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing certain books of a state series of school text-books, and appropriating money therefor.

[Approved March 15, 1887; 1887, 139.]

Defining additional books for compilation.

Section 1. In addition to the books directed to be compiled for use in the common schools of the state by section one of the act entitled "An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing a state series of school text-books, and appropriating money therefor," approved February twenty-six, eighteen hundred and eighty-five, the state board of education shall compile, or cause to be compiled, the following described text-books, viz: One (1) elementary arithmetic; one (1) elementary grammar, or language lessons; one (1) elementary geography; one (1) physiology and hygiene, including a system of gymnastic exercises, and special instructions as to the nature of alcoholic drinks and narcotics, and their effects upon the human system; and the sum of fifteen thousand dollars, in addition to the unexpended balance of the sum appropriated by section eight of said act aforesaid, is hereby appropriated out of any money in the state treasury not otherwise appropriated, for the purpose of compiling, or causing to be compiled, the text-books hereinbefore enumerated, together with those enumerated in section one of said act aforesaid, and still remaining to be compiled. The appropriation provided for in this section shall be subject to the order of the state board of education; provided, that all demands against said appropriation shall first be approved by said state board of education, and presented to the state board of examiners, in itemized form, for their approval; and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

Remuneration for compiling books.

Sec. 2. The state board of education shall em-

ploy well-qualified persons to compile the books mentioned in section one of this act, and shall fix the remuneration for the services thus rendered; provided, that if competent authors shall compile any one or more works of the first order of excellence, and shall offer the same as a free gift to the people of the state, together with the copyright of the same, and the exclusive right to manufacture and sell such works within the state of California, it shall be the duty of the state board of education to accept such gift, and to expend no money for the purpose of compiling works relating to the subjects treated of in the books thus donated. The state board of education shall furnish to the superintendent of state printing designs for all cuts and engravings to be used in the said series of text-books.

Supervision of superintendent of state printing.

Sec. 3. The printing of all the text-books provided for in section one of this act, and all the mechanical work connected therewith, shall be done by and under the supervision of the superintendent of state printing, at the state printing-office; provided, that the purchase of paper for the school books, and the card-boards, cloth, and leather for covers, shall be procured by advertising for proposals to furnish the same in the manner now provided for by section five hundred and thirty-two of the Political Code, relating to paper supplies for the state printing-office; and provided further, that all folding, stitching, binding, and ruling shall be done in the state bindery; but the accounts of the school-book binding shall be kept separate from those of all other binding. The sum of one hundred and sixty-five thousand dollars, in an addition to the unexpended balance of the sum appropriated by section nine of said act aforesaid, approved February twenty-sixth, eighteen hundred and eighty-five, seven thousand five hundred dollars of which shall be available during the present fiscal year, is hereby appropriated out of any money in the state treasury not otherwise appropriated, to purchase the necessary machinery, and to properly maintain the same, and to purchase such type and other materials as may be required in the manufacture of the text-books provided for in sec-

tion one of this act, together with those enumerated in section one of said act aforesaid, approved February twenty-sixth, eighteen hundred and eighty-five, and remaining to be manufactured, as well as to pay the salaries or wages of the compositors, binders, and other persons to be employed in such manufacture; provided, that the state board of education shall first approve the style of printing, engravings, and illustrations, kind of paper, size, and binding of volumes; said sum to be drawn by the superintendent of state printing in the same manner as provided in subdivision four of section five hundred and twenty-six of the Political Code.

Secure copyrights.

Sec. 4. The state board of education shall secure copyrights to all the books that shall be compiled under the provisions of this act, and shall protect said copyrights from all infringement.

Moneys received kept in state treasury.

Sec. 5. All moneys that have been received or may hereafter be received from the state series of school text-books shall be kept by the state treasurer as a separate and distinct fund, to be known as the state school book fund, which said fund shall be subject to the following drafts, viz.: by the superintendent of state printing for all moneys needed for manufacturing any editions of any book of the state series, over and above the first fifty thousand copies manufactured of such book, the same to be drawn as provided in subdivision four of section five hundred and twenty-six of the Political Code; provided, that all demands on the state school book fund shall be presented to the state board of examiners in itemized form, for their approval; and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

Sec. 6. This act shall take effect from and after its passage.

An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing an elementary book on civil government, for the state series of school text-books.

[Approved March 19, 1889; 1889, 327.]

Compiling, etc., books on civil government of the United States.

Section 1. The state board of education shall compile, or cause to be compiled, the following described text-book for use of the common schools of the state, viz.: One (1) elementary book on the civil government of the United States, with a special analysis of the government of the state of California.

Printing of.

Sec. 2. The printing of said elementary book on civil government, provided for in section one of this act, shall be done by and under the supervision of the superintendent of state printing, subject to the provisions of section three of an act entitled "An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing certain books of a state series of school text-books, and appropriating money therefor," approved March fifteenth, eighteen hundred and eighty-seven.

Sec. 3. This act shall take effect from and after its passage.

An act to provide for compiling, illustrating, electrotyping, printing, binding, copyrighting, and distributing a state series of school text-books, and appropriating money therefor.

[Approved February 26, 1885.]

Series of school books.

Section 1. The state board of education shall compile, or cause to be compiled, for use in the common schools of the state, a series of school text-books of the following description, viz.: Three (3) readers, one (1) speller, one (1) arithmetic, one (1) grammar, one (1) history of the United States, and one (1) geography. The matter contained in

the readers shall consist of lessons commencing with the simplest expressions of the language, and, by a regular gradation, advancing to and including the highest styles of composition, both in prose and poetry.

Compilers of same.

Sec. 2. The state board of education shall employ well-qualified persons to compile the books mentioned in section one of this act, and shall fix the remuneration for the services thus rendered; provided, that if competent authors shall compile any one or more works of the first order of excellence, and shall offer the same as a free gift to the people of the state, together with the copy-right of the same, and the exclusive right to manufacture and sell such works within the state of California, it shall be the duty of the state board of education to accept such gift, and to expend no money for the purpose of compiling works relating to the subjects treated of in the books thus donated. The state board of education shall furnish to the superintendent of state printing designs for all cuts and engravings to be used in the said series of text-books.

Printing and binding.

Sec. 3. The printing of all the text-books provided for in section one of this act, and all the mechanical work connected therewith, shall be done by and under the supervision of the superintendent of state printing at the state printing-office; provided, that the purchase of paper for the school books, and the card-boards, cloth, and leather for covers, shall be procured by advertising for proposals to furnish the same, in the manner now provided for by section five hundred and thirty-two of the Political Code, relating to paper supplies for the state printing-office; and provided further, that when the state has its bindery in operation, all folding, stitching, binding, and ruling of the state shall be done in the state bindery; but the accounts of the school book binding shall be kept separate from those of all other binding.

Copyrights.

Sec. 4. The state board of education shall secure copyrights to all the books that shall be compiled under the provisions of this act, and shall protect said copyrights from all infringement.



### Order for uniform use.

Sec. 5. Whenever any one or more of the state series of school text-books shall have been compiled and adopted, the state board of education shall issue an order requiring the uniform use of said book or books in the common schools of the state; but said order for the uniform use of said book or books shall not take effect till the expiration of at least one year from the time of the completion of the electrotype plates of said book or books, and thereafter such book or books shall be used in all the common schools of this state; and no school board or other school authority in this state shall have the power to authorize the use of, nor shall any common school in this state use any books as text-books for pupils other than those directed to be used by the order aforesaid of such state board, except books on such subjects as are not provided for by text-books published by the state. Nothing in this act shall be construed to prevent any county or school district from adopting any one or more of the state series of school text-books whenever said book or books shall have been published. The superintendent of public instruction must withhold from any city, city and county, county, or from any school district in this state using school books in violation of the provisions of this act and section all state school moneys to which it may be entitled, until it comply with the requirements of this section; and any moneys so withheld must be apportioned by the superintendent at the next annual apportionment in the same manner as other school moneys in the treasury. [Amendment approved March 31, 1891; Stats. 1891, p. 453.]

### Text-books, how obtained.

Sec. 6. All orders for text-books shall be made on the superintendent of public instruction, and shall be accompanied by cash, in payment for the same, at the price fixed by the state board of education as the cost price at Sacramento; provided, that if the books are to be shipped by mail, the cost of postage shall also accompany the order. The following persons shall be entitled to order books:

1. County superintendents of schools, for the Gen. Laws—89.

use of teachers, parents, and pupils in their counties only.

2. Principals of state normal schools, for their own and for the use of the pupils in their respective schools only.

3. The secretary or clerk of any school district in the state, whether incorporated or operating under the general law of the state, for the use of the pupils in such district only; but no books ordered by the county superintendents, or clerks of district boards of trustees, or principals of state normal schools, shall be sold at a price exceeding the cost price at Sacramento, with the actual cost of freight and cartage added.

4. Any retail dealer who shall first transmit to the state superintendent of public instruction an affidavit, duly subscribed by him, in substance as follows, to wit:

"In consideration of receiving for sale, upon the inclosed or upon any future order, the series of school text-books, or any part thereof, published by the state of California, I hereby agree that I will not sell the same to any person or persons for the purpose of being sold again, or to any person or persons beyond the limits of the state of California; and that I will not sell said series of text-books or any part or portion thereof, at a price exceeding the price to the pupil fixed by the state board of education."

Said affidavit shall be indorsed by the county superintendent in the following words, viz.:

"I hereby certify that (A B) is a regular retail dealer in school books in — county. C D, county superintendent."

It shall be the duty of the state superintendent of public instruction to furnish, at once, to each county superintendent, for the use of any dealer in his county who may apply for permission to sell the books of the state series, printed copies of the above affidavit, together with the list of prices of such books fixed as the cost price at Sacramento, and the price to the pupil; and any dealer who shall fail to comply with the conditions of such affidavit shall forfeit his right to any further purchase of said books from the state. And it shall be the duty of the superintendent of public instruction to report to the state controller,

on or before the fifth day of every month, the number of books sold by him during the preceding month, and pay the moneys received for the same into the state treasury. It shall also be the duty of the superintendent of state printing, on or before the fifth day of every month, to report to the state controller the number and value of the books shipped by him on the order of the state superintendent of public instruction, and the number and value of the finished books on hand. [Amendment approved March 15, 1887; Stats. 1887, p. 145. In effect immediately.]

Duties of board of supervisors.

Sec. 7. It shall be the duty of the boards of supervisors of the counties or cities and counties in this state to provide a revolving fund, for the purpose of enabling the county school superintendents to purchase the state text-books; all moneys to be taken therefrom to be replaced by the moneys received from the sale of said books to the scholars of the public schools of his county, either by himself or by the teachers of the public schools, or the clerks of boards of district trustees. [Amendment approved March 15, 1887; Stats. 1887, p. 145. In effect immediately.]

Appropriation for compilations.

Sec. 8. The sum of twenty thousand dollars is hereby appropriated, out of any money in the state treasury not otherwise appropriated, for the purpose of compiling, or causing to be compiled, the series of text-books for the common schools, as set forth in section one of this act. The appropriation provided for in this section shall be subject to the order of the state board of education; provided, that all demands against said appropriation shall first be approved by said state board of education and presented to the state board of examiners in itemized form for their approval; and upon the approval of the state board of examiners, the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

Appropriation for presses, type, etc.

Sec. 9. The sum of one hundred and fifty thousand dollars is hereby appropriated out of any

money in the state treasury not otherwise appropriated, to purchase the necessary machinery, presses, type, binding, electrotyping apparatus, and such other material as may be required in the manufacture of the text-books provided for in section one of this act, as well as to pay the salaries or wages of the compositors, binders, and other persons to be employed in such manufacture; provided, that the state board of education shall first approve the style of printing, engravings, and illustrations, kind of paper, size, and binding of volumes; said sum to be drawn by the superintendent of state printing in the same manner as provided in subdivision four of section five hundred and twenty-six of the Political Code.

Furnished at cost of printing.

Sec. 10. All school books compiled by the state shall be furnished to the public school children of the state at the cost of printing, publishing, and distributing the same; said cost to be ascertained and fixed by the state board of education, on or before the fifteenth day of June of each school year; and it is further enacted, that the cost of distribution shall be taken to be the cost of postage required for mailing each book. [Amendment approved March 15, 1887; Stats. 1887, p. 145. In effect immediately.]

Sec. 11. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 12. This act shall take effect immediately. Superintendent of public instruction to employ assistance.

Sec. 4. The superintendent of public instruction is hereby authorized to employ assistance necessary to the carrying out of the provisions of this act. And the controller is hereby directed and authorized to draw his warrants for a sum not exceeding two thousand dollars annually, on the general fund of the state, for the payment of such assistance. [Amendment approved March 15, 1887; Stats. 1887, 145. In effect immediately.]

(The amendment added this new section at the end, but did not give it a new number. This number is the amendment section number.)

An act to provide for the revision of certain books of the state series of school text-books, for the compilation of an additional book of said series, and for the continued publication of the same; and to authorize and direct the use, for these purposes, of the money accumulated in the state school book fund.

[Approved March 9, 1893; Stats. 1893, p. 85.]

Section 1. The state board of education is hereby authorized and directed to revise the following books of the state series of school text-books, viz., the first, second, and third readers, the English grammar, the United States history, and the advanced arithmetic, and to compile a primary history of the United States; and in such revision and compilation may employ well-qualified persons to assist them; provided, that in revising said readers the board may cause them to be issued in a series of five books or less, in their discretion; and the board shall furnish to the superintendent of state printing designs for all cuts and engravings to be used in the books revised and compiled under the provisions of this section.

Sec. 2. All indebtedness incurred by said board in carrying out the provisions of section one of this act shall be paid out of the money accumulated in the state school book fund from the sale of the state series of school text-books; provided, that all demands on account of such indebtedness shall first be approved by said state board of education, and presented to the state board of examiners, in itemized form, for their approval, and upon the approval thereof by the state board of examiners the controller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same; provided further, that the indebtedness incurred by said board in carrying out the provisions of section one of this act shall not exceed the sum of twenty-five thousand dollars (\$25,000), which sum is hereby appropriated from the state school book fund for the use of the said board in the premises.

Sec. 3. The state board of education shall secure copyrights to all the books that shall be re-

vised or compiled, as the case may be, under the provisions of this act, and shall protect said copyrights from all infringement.

Sec. 4. Whenever any one or more of the state series of school text-books shall have been revised or compiled, the state board of education shall issue an order requiring the uniform use of said book or books in the common schools of the state; but said order for the uniform use of said book or books shall not take effect till the expiration of at least one year from the time of the completion of the electrotype plates of said book or books. Nothing in this act shall be construed to prevent any county, city, city and county, or school district from using any one or more of the state series of school text-books provided for in this act, whenever said book or books shall have been published.

Sec. 5. The printing and binding of all text-books specified in section one of this act, and all the mechanical work connected therewith, shall be done by and under the supervision of the superintendent of state printing, at the state printing-office; provided, that the purchase of paper for the school books, and the binder's boards, cloths, and leather for covers, shall be procured by advertising for proposals to furnish the same, in the manner now provided for by section five hundred and thirty-two of the Political Code, relating to paper supplies for the state printing-office.

Sec. 6. Whenever the appropriations heretofore made from the general fund to the use of the superintendent of state printing for the manufacture of books of the state series of school text-books is exhausted, all indebtedness incurred for the further manufacture of said books shall be paid from the state school book fund, together with all indebtedness incurred for the purchase and proper maintenance of such necessary machinery as may be required in the manufacture of said books, and to purchase such type and other materials as may be required for the same; provided, that all demands on the state school book fund, for the purposes enumerated in this section, shall be presented to the state board of examiners, in itemized form, for their approval; and upon the approval of the state board of examiners, the con-



troller is hereby authorized to draw his warrant upon the state treasurer for the payment of said demands, and the state treasurer is authorized to pay the same.

Sec. 7. This act shall take effect immediately.

An act to provide for the levy and collection of taxes by and for school districts, except in municipal corporations of the first class.

[Approved February 14, 1891; Stats. 1891, p. 4.]

Section 1. In all cases where the board of school trustees, board of school directors, board of education, or other governing board of any school district in this state, except in municipal corporation of the first class, has or may hereafter have power to raise money by taxation without a vote of the people of the school district, in addition to the funds provided by state and county for school or educational purposes, such money shall be raised and such taxes shall be levied and collected in the manner following, to wit: The board of trustees directors, or board of education shall, within the limits fixed by law, estimate the amount of money to be so raised by taxation, and required by their respective districts for school purposes during the year next ensuing, which year shall begin on the first Monday of January, at twelve o'clock, M. Said meeting for such purpose shall be held between the first and twentieth day of September in each year; said estimate, showing the amount and for what purpose the same is to be used, shall be entered upon the records of the board making the same, and signed by a majority of said board, and attested by the clerk or secretary of said board. Said clerk or secretary shall immediately furnish to the board of supervisors of the county in which such district is situated a copy of said record containing such estimate, which shall show the name of the district, the amount of money to be raised, and the purposes for which it is to be used.

Sec. 2. The board of supervisors, upon receipt of such estimate, must, at the time of levying the county taxes, levy a tax upon all the taxable property in the school district requiring such money

sufficient to raise the amount; the rate of taxation shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the district as it appears on the assessment roll of the county, and then divide the amount to be raised by the remainder of said aggregate assessed value. The taxes so levied shall be computed and entered on the assessment roll by the county auditor, and collected at the same time and in the same manner as state and county taxes, and when collected, shall be paid into the county treasury for the use of the district for which said money was collected. The county treasurer shall, upon demand, pay out such moneys to the district entitled thereto, in the same manner as other school moneys are paid out by such treasurer.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed.

An act to enable school districts, in cities of the fifth class, and school districts which embrace territory a portion of which is within and a portion of which is without such cities of the fifth class, to issue bonds for the purpose of raising money to purchase school lots, and for building or purchasing one or more school-houses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes, and to repeal an act approved March 31, 1891, entitled "An act to enable cities of the fifth class to issue bonds for the purpose of raising money to purchase school lots and for building or purchasing one or more school-houses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes."

[Approved March 23, 1893; Stats. 1893, p. 292.]

Section 1. The board of education of any school district in a city of the fifth class, or of any school district which embraces territory, a portion of which is within and a portion of which is without

such city of the fifth class, may, when in their judgment it is advisable, and must, when requested by the board of trustees of such city, call an election and submit to the electors of the district whether the bonds of such district shall be issued and sold for the purpose of raising money to purchase school lots, and for building or purchasing one or more school-houses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes. [Amendment, approved March 11, 1897; Stats. 1897, chap. xcix. In effect immediately.]

Sec. 2. Such election must be called by posting notices, signed by the board of education, in three of the most public places in the district, for not less than twenty days before the election, and by publishing such notices, in some newspaper published in such city, not less than once a week for three successive weeks.

Sec. 3. Such notices must contain,—

1. The time and place of holding such election.
2. The names of one inspector and two judges in each voting precinct in said district, to conduct the same.

3. The hours during the day, not less than six hours, in which the polls will be open.

4. The amount and denomination of the bonds, the rate of interest, and the number of years, not exceeding ten, the whole or any part of said bonds are to run.

Sec. 4. Such election shall be held, in all respects as nearly as practicable, in conformity with the general election law; provided, that no particular form of ballot shall be required, excepting that the words to appear on the ballots, which shall be "Bonds—Yes," or "Bonds—No"; nor shall any informalities, not amounting to fraud, in conducting such election, invalidate the same.

Sec. 5. On the seventh day after said election, at one o'clock, P. M., the returns having been made to the board of education, the board must meet and canvass said returns, and if it appears that two-thirds of the votes cast at said election were in favor of issuing such bonds, then the board shall cause an entry of that fact to be made upon its minutes, and shall certify to the board

of supervisors of the county in which said district is located the proceedings had in the premises; and thereupon said board of supervisors shall be and they are hereby authorized and directed to issue the bonds of such district to the number and amount provided in such proceedings, payable out of the bond fund of such district (naming the same), and that the money shall be raised by taxation upon the taxable property in said district for the redemption of said bonds, and the payment of the interest thereon; provided, that the total amount of bonds so issued shall not exceed five per cent of the taxable property of the district as shown by the last equalized assessment of the property in such school district.

Sec. 6. The board of supervisors, by an order entered upon its minutes, shall prescribe the form of said bonds, and of the interest coupons attached thereto, and must fix the time when the whole or any part of the principal of said bonds shall be payable, which shall not be more than ten years from the date thereof.

Sec. 7. Said bonds must be payable in gold coin of the United States; must be signed by the president of the board of supervisors, and countersigned by the clerk of the county, who must affix the county seal thereto; must not bear a greater rate of interest than eight per cent, said interest to be payable semi-annually in like gold coin; and said bonds must be sold in the manner prescribed by the board of supervisors, but for not less than par, in gold coin of the United States, and the proceeds of the sale thereof must be deposited in the county treasury to the credit of the building fund of said school district, and be drawn out for the purpose aforesaid as other school moneys are drawn out.

Sec. 8. The board of supervisors, at the time of making the levy of taxes for county purposes, must levy a tax for that year upon the taxable property in such district for the interest and redemption of said bonds; and such tax must not be less than sufficient to pay the interest of said bonds for that year, and such portion of the principal as is to become due during such year, and in any event must be high enough to raise, annually, for the first half of the term said bonds have to

run, a sufficient sum to pay the interest thereon, and during the balance of the term, high enough to pay such annual interest; and to pay, annually, a proportion of the principal of said bonds equal to a sum produced by taking the whole amount of said bonds outstanding and dividing it by the number of years said bonds then have to run; and all moneys so levied, when collected, shall be paid into the county treasury to the credit of the building fund of such district, and be used for the payment of principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasurer, upon the warrant of the auditor, out of the fund provided therefor; and it shall be the duty of the auditor to cancel and file with the treasurer the bonds and coupons as rapidly as they are paid. This section shall also apply to all cases where bonds were issued under the provisions of the aforesaid act, approved March 31, eighteen hundred and ninety-one, and in such cases all moneys collected under the provisions of this section shall be paid by the county treasurer, upon the warrant of the auditor, to the city treasurer of the city where such bonds and the interest thereon are payable. Warrants for all such moneys shall be drawn by the auditor from time to time, upon the demand of such city treasurer. [Amendment, approved March 11, 1897; Stats. 1897, chap. xcix. In effect immediately.]

Sec. 9. If the board of supervisors of any county in which any school district has issued bonds, under the provisions of this act or under the provisions of said act approved March thirty-first, eighteen hundred and ninety-one, shall fail to make the levy necessary to pay such bonds or interest coupons at maturity, and the same shall have been presented to the county treasurer, and the payment thereof refused, the owner may file the bonds, together with all unpaid coupons, with the state controller, taking his receipt therefor, and the same shall be registered in the state controller's office; and the state board of equalization shall, at their next session, and at each annual equalization thereafter, add to the state tax to be levied in said district a sufficient rate to raise the amount of principal and interest past due prior to

the next levy, and the same shall be levied and collected as a part of the state tax, and paid into the state treasury, and passed to the special credit of such district bond tax, and shall be paid by warrants, as the payments mature, to the holder of such registered obligations, as shown by the register in the office of the state controller, until the same shall be fully satisfied and discharged; any balance then remaining shall be transmitted to the treasurer of the county in which is situated the district by which such bonds were issued, and shall be placed by the county treasurer to the credit of the general school fund of said district. [Amendment, approved March 11, 1897; Stats. 1897, chap. xcix. In effect immediately.]

Sec. 10. The act approved March thirty-first, eighteen hundred and ninety-one, entitled "An act to enable cities of the fifth class to issue bonds for the purpose of raising money to purchase school lots, and for building or purchasing one or more school-houses, and supplying the same with furniture, necessary apparatus, and improving the grounds, and for liquidating any indebtedness already incurred for such purposes," is hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its passage.

An act to provide for the appointment and salary of a clerk in the office of the superintendent of public instruction, and to make an appropriation therefor.

[Approved March 27, 1895; Stats. 1895, p. 238.]

Section 1. The superintendent of public instruction may appoint an additional clerk, who shall be a stenographer, at a salary of twelve hundred dollars per year, payable in the same manner as the salaries of other civil officers of the state are paid.

Sec. 2. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated the sum of twenty-four hundred dollars, for the payment of said clerk's salary for the forty-seventh and forty-eighth fiscal years, com-



mening July first, eighteen hundred and ninety-five.

Sec. 3. This act shall take effect immediately.

An act to create and administer a public school teachers' annuity and retirement fund in the several counties, and cities and counties in the state.

[Approved March 26, 1895; Stats. 1895, p. 170.]

Section 1. The superintendent of public schools, or in consolidated cities and counties, the superintendent of common schools, the county treasurer, or in consolidated cities and counties, the city and county treasurer, and the chairman of the board of supervisors, or in consolidated cities and counties, the mayor, of each county, or consolidated city and county, and their successors in office, are hereby constituted a board of trustees of the public school teachers' annuity and retirement fund, to manage the same as hereinafter directed; said board shall be known as the public school teachers' retirement fund commissioners, and its members shall serve without extra compensation, and shall be liable on their official bonds for the performance of the duties imposed by this act. It shall be the duty of the district attorney of every county, or the city and county attorney of every consolidated city and county, to attend to all suits, matters, and things in which the said board of commissioners may be legally interested, and to give his advice or opinion, in writing, whenever required by said board. [Amendment, approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Sec. 2. The public school teachers' retirement fund commissioners shall organize as such board by choosing one of their number as chairman, and one as secretary. The county treasurer, or in consolidated cities and counties, the city and county treasurer, shall be ex officio treasurer of said retirement fund. Said board shall hold quarterly meetings on the third Saturday in January, April, July, and October of each year, at the office of the county superintendent of public schools, or, in consolidated cities and counties, at the office of the

superintendent of common schools. It shall biennially, at its meeting in January, select from its members a chairman and a secretary. A majority of its members shall constitute a quorum for the transaction of business. It shall report annually to the board of supervisors of the county, or consolidated city and county, the condition of said retirement fund, and the receipts and disbursements on account of the same, with a full and complete list of the beneficiaries of said fund, and the amounts paid to each of them. [Amendment, approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Old section 3 amended and renumbered section 8.

Sec. 3. Said board of public school teachers' retirement fund commissioners shall issue warrants, signed by its chairman and secretary, to the persons entitled thereto, for the amounts of money ordered paid to such persons from said fund by said board, stating therein for what purpose such payment is made, and the treasurer shall pay such warrants on presentation. Said board shall keep a record of all its proceedings, and said record shall be open to public inspection. It shall, at each quarterly meeting, make a list of all persons, if any, entitled to payment out of the funds provided by this act, and enter said list in a book to be kept by them for that purpose, to be known as the public school teachers' annuity and retirement fund book, which list shall be sworn to as correct by the chairman and the secretary of said board, and which shall be open to public inspection. [New section approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Old section 4 incorporated in section 2.

Sec. 4. In addition to the powers hereinbefore granted to said board, it shall have the further power, (1) to provide for the payment, out of the hereinafter described annuity fund, of necessary expenses, such as printing, stationery, and postage stamps; and in counties, or in consolidated cities and counties, where the number of those subject to the burdens of this act is greater than two hundred, to employ a clerk at a salary not to exceed twenty-five dollars per month; (2) to make such needful rules and regulations for the transaction of its business, from time to time, as may be nec-

essary. [Amendment, approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Old section 5 amended and renumbered 4.

Sec. 5. Those subject to the burdens of this act in each county, or in each consolidated city and county, at a meeting called for that purpose by the superintendent of public schools of such county, or by the superintendent of common schools of such city and county, on the first Saturday in May following the creation of the fund hereinafter specified, shall elect by ballot five of their number, who shall constitute a committee on retirement; the members of said committee shall, immediately after their election, classify themselves by lot so that one shall serve for one year, two shall serve for two years, and two shall serve for three years; and thereafter, annually, at a meeting called in the same manner on the first Saturday in May, the successor or successors of the member or members of said committee whose term of office has expired, shall be elected for a term of three years; provided, however, that said committee shall always consist of at least one class teacher from some primary school, one from some grammar school, and one from some high school within the county, or consolidated city and county, whenever such election is possible. [New section approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Old section 6 amended and renumbered 10.

Sec. 6. The board of education of any incorporated city or town, and the board of trustees of any school districts outside of said city or town, shall refer all applications for retirement to said committee on retirement, or may, of its own motion, submit the name of any person or persons, whom it desires to have retired, to the said committee on retirement, and it shall thereupon be the duty of said committee to investigate the case and report to said board of education or board of trustees, whether or not said teacher should be retired, and the annuity to which said teacher is entitled, if entitled to any. At least three members of the said committee must concur in the report, if it be in favor of granting said annuity. This report of said committee shall be final. Said board of education, or board of trustees, shall

thereupon certify and send this report to the public school teachers' retirement fund commissioners, who shall be bound by its decision. [New section approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Old section 7 amended and renumbered 12.

Sec. 7. In addition to the powers heretofore granted to said committee on retirement, it shall have the power (1) to subpoena and compel witnesses to attend and testify before it on all matters relating to the operation of this act, and any member of said committee may administer an oath or affirmation to such witness in the form prescribed in courts of justice; (2) to make such rules and regulations for the transaction of its business as may from time to time be necessary. [New section approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Old section 8 amended and renumbered 13.

Sec. 8. (a) Any teacher who shall have served in the public schools of this state for a period of thirty years, as a teacher or school officer, and who shall have been subject to the burdens imposed by this act for thirty years, shall be entitled to retire and to receive from the public school teachers' annuity and retirement fund the sum of thirty dollars (\$30) per month in counties, and fifty dollars per month in consolidated cities and counties, payable quarterly; and any teacher who shall have become incapacitated for performing the duties of a teacher, and who shall have been a contributor to the annuity fund for at least five years, shall be entitled to retire and to receive an annuity from the public school teachers' annuity and retirement fund equal to such proportion of the maximum annuity granted under this act, as the time that he or she has been subject to the burdens imposed by this act, bears to the period of thirty years; provided, however, that any annuity shall be suspended if its recipient return to service in the public schools, and any annuity less than two-thirds of the maximum annuity shall cease if the committee on retirement constituted in section five of this act, shall at any time decide that its recipient has been restored to the capacity of performing the duties of a teacher, and has been reimbursed from the annuity fund

at least the full amount of his or her contribution thereto; provided, further, that such proportionate reduction shall not apply to those now employed in the public schools who shall have filed the notice hereinafter specified within ninety days after the passage of this act in counties, or in consolidated cities and counties where the provisions of the act to which this act is amendatory are now applicable, and within ninety days after the establishment of the fund hereinafter specified in all other counties, or consolidated cities and counties, and who shall have paid at the time of their retirement an amount equal to what they would have paid into the fund had they been contributing thirty years; provided, further, that if a person cease to teach in any county, or city and county where he or she has been subject to the burdens imposed by this act, then after such person has taught in the public schools of this state for thirty years, he or she shall be entitled to retire and to receive from the public school teachers' annuity and retirement fund of the county, or consolidated city and county to which he or she has contributed, an annuity equal to such proportion of the maximum annuity granted under this act, as the time that he or she has been subject to the burdens imposed by this act in such county, or city and county, bears to the period of thirty years; and provided further, that if any teacher shall be compelled by reason of ill health, to retire from the profession of teaching after the expiration of five years and before the expiration of thirty (30) years of service in the public schools of this state, such retiring teacher, if a contributor to the annuity fund at the time of retirement, shall be entitled to as many thirtieths (30ths) of the full annuity as he or she has had years of service by paying into the annuity fund the contributions to that fund corresponding to those years of service rendered at a time when or in a place where it was impossible to make such contributions by reason of the nonexistence of an annuity fund.

(b) Teachers of evening schools receiving a salary of fifty dollars or less, shall be subject to one-half its burdens and shall be entitled to one-half of the benefits of this act; provided, that any teacher

who is employed both in a day and in an evening school shall be considered for the purposes of this act to be employed in a day school only. [Amendment approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Old sec. 9 amended and renumbered 14.

Sec. 9. If at the end of any quarter year there shall not be a sufficient amount of money in the "annuity fund" hereinafter described, to pay all warrants or demands of annuitants in full, then the money in that fund shall be divided pro rata among them, and the sum received by each annuitant shall be in full discharge of all claims against said fund to that date. [New section approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Sec. 10. The public school teachers' annuity and retirement fund herein provided for, shall consist of the following, with the income and interest thereof: (I) Twelve dollars (\$12) per school year, of the salaries paid to all those subject to the burdens of this act, in each county or consolidated city and county, shall be deducted from the warrants for salary, and paid by the Treasurer of the county, or consolidated city and county, to the public school teachers' retirement fund commissioners of said county, or consolidated city and county; and it shall be the duty of the secretary of the Board of Education in every incorporated city or town, or consolidated city and county, and the secretary of the board of trustees of every school district outside of such city or town, or consolidated city and county, to note in each warrant the amount to be deducted by the treasurer. (II) All moneys received from gifts, bequests, and devises, or from any other source. (III) All money, pay, compensation, or salary forfeited, deducted, or withheld from the warrant or demand for salary of any teacher or teachers for and on account of absence from duty from any cause, which the Board of Education of every incorporated city or town, or the Board of Trustees of every school district outside of such city or town, may appropriate and set apart for the aforesaid fund; and said Board of Education, or Boards of Trustees, are hereby empowered to appropriate such moneys, or any part thereof, for such fund;



provided, that in consolidated cities and counties, after the establishment of an annuity fund therein, it is hereby made the duty of Boards of Education to appropriate, monthly, at least one-half of such moneys for such fund. [Amendment approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Sec. 11. The public school teachers' annuity and retirement fund herein provided for shall be divided into two distinct funds, or accounts, (1) the permanent fund, and (2) the annuity fund.

(1) The permanent fund.

A. The permanent fund shall consist of: (I) Twenty-five per cent of all contributions from those affected by this Act; (II) Twenty-five per cent of all gifts, bequests, or devises, unless otherwise ordered by the donor or testator; (III) Twenty-five per cent of all moneys deducted from the salary of teachers because of absence from duty.

B. When the permanent fund shall amount to the sum of fifty thousand dollars, then all moneys thereafter received shall go into the annuity fund, except such gifts, devises, or bequests as may be specially directed by its donor or testator to be placed in the permanent fund.

C. It shall be the duty of the public school teachers' retirement fund commissioners to invest the aforesaid permanent fund in interest-bearing bonds issued by the federal, state, county, city and county, or municipal governments, and to apply the interest thereon as herein directed.

(2) The annuity fund.

A. The annuity fund shall consist of: (I) The income derived from the permanent fund; (II) All other moneys belonging to the public school teachers' annuity and retirement fund, not hereinbefore directed to be placed in the permanent fund; (III) All money in the fund provided for in the act to which this is amendatory.

B. The annuity fund shall be the only one from which annuitants shall be paid.

C. If at the end of any fiscal year there remains any surplus in the annuity fund, said surplus shall be deposited by the public school teachers' annuity and retirement fund commissioners in any savings bank or savings banks designated by

them. [New section approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Sec. 12. This act shall be binding (1) upon such public school teachers, and such other officers of the school department as possess teachers' certificates, who, after the passage of this act, shall sign and deliver to the public school teachers' retirement fund commissioners, and to the secretary of the Board of Education of the incorporated city or town, or consolidated city and county, or to the secretary of the Board of Trustees of the school district in which they are employed, a notice in substantially the following form:

————— 189—.

To the Public School Teachers' Annuity and Retirement Fund Commissioners, of ——— County (or city and county):

You are hereby notified that I agree to be bound by, and desire to avail myself of the provisions of the Act of the Legislature of the State of California, approved ———, eighteen hundred and ninety-seven, entitled "An Act to amend an Act approved March twenty-six, eighteen hundred and ninety-five, entitled 'An Act to create and administer a public school teachers' annuity and retirement fund in the several counties, and cities and counties in the State.' "

—————,  
Public School Teacher.

And provided, that at least thirty teachers within the county, or consolidated city and county, have filed the notice hereinbefore set forth; provided further, that in all counties, or in consolidated cities and counties, when there is a less number of teachers than thirty, this Act shall be binding on all those who signify their intention of being bound thereby.

(2) In consolidated cities and counties it shall be binding upon all teachers elected or appointed to teach in the public schools of such consolidated cities and counties after the passage of this Act.

(3) Annuities heretofore granted under the provisions of the act of which this act is amendatory shall be continued for the same amount as heretofore paid, subject, however, to the conditions imposed by sections nine (9) and eleven (11)

of this act. [Amendment approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Sec. 13. All acts or parts of acts in conflict with the provisions of this act are hereby repealed. [Amendment approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

Sec. 14. This Act shall take effect and be in force from and after its passage. [Amendment approved March 29, 1897; Stats. 1897, chap. clxix. In effect immediately.]

An Act to provide for the disposal of moneys remaining in the building fund of any school district, after all bonds and indebtedness shall have been paid and liquidated, arising from the construction of school buildings.

[Approved March 13, 1883; 1883, 298.]

Section 1. All moneys that have been or shall be raised by special tax, for the purpose of erecting school buildings, that shall remain in the hands of the county treasurer, after all bonds that have been or may be issued on account of such buildings shall have been redeemed, and all other indebtedness arising on account of such building shall have been liquidated, shall be placed in the county school fund of the school district for which such moneys were raised, subject to the order of the trustees of said district.

An Act to enforce the educational rights of children.

[Approved March 28, 1874; 1873-4, 751.]

Children to be sent to school.

Section 1. Every parent, guardian, or other person in the state of California having control and charge of any child or children between the ages of eight and fourteen years shall be required to send any such child or children to a public school for a period of at least two-thirds of the time during which a public school shall be taught in each city, or city and county, or school district, in each

school year, commencing on the first day of July, in the year of our Lord eighteen hundred and seventy-four, at least twelve weeks of which shall be consecutive, unless such child or children are excused from such attendance by the board of education of the city, or city and county, or of the trustees of the school district in which such parents, guardians, or other persons reside, upon its being shown to their satisfaction that his or her bodily or mental condition has been such as to prevent attendance at school, or application to study for the period required, or that the parents or guardians are extremely poor or sick, or that such child or children are taught in a private school, or at home, in such branches as are usually taught in the primary schools of this state, or have already acquired a good knowledge of such branches; provided, in case a public school shall not be taught for three months during the year, within one mile by the nearest traveled road of the residence of any person within the school district, he shall not be liable to the provisions of this act.

#### Notice of law.

Sec. 2. It shall be the duty of the president of each board of education, and of the clerk of each board of district trustees, in the state of California, to cause to be posted three notices of this law in the most public places in the city, or city and county, or in the school district, or published in one newspaper therein for three weeks, in the month of June in each year, the expense of each publication to be paid out of the school funds of such city, or city and county, or school district, as the case may require.

#### Misdemeanor.

Sec. 3. In case any parent, guardian, or other person shall fail to comply with the provisions of this act, said parent, guardian, or other person shall be deemed guilty of a misdemeanor, and shall be liable to a fine of not more than twenty dollars; and for the second and each subsequent offense the fine shall not be less than twenty dollars nor more than fifty dollars; and the parent, guardian, or other person so convicted shall pay all costs. Each such fine shall be paid to the clerk of the proper board of education, or of the district trustees.

### Prosecutions.

Sec. 4. And it shall be the duty of the clerk of each board of education and of each board of district trustees, on complaint of any teacher or taxpayer, to prosecute all offenses occurring under the provisions of this act; and any clerk neglecting to prosecute such offense within ten days after a written notice has been served on him by any teacher or taxpayer within the limits of the authority of said board, unless the person so complained of shall be excused by the proper school board, shall himself be liable to a fine of not less than twenty dollars nor more than fifty dollars, which fine shall be prosecuted for in the name of the people of the state of California, and the fine so collected shall be paid over to the clerk of the board of education or trustees of the proper city, or city and county, or school district, to be accounted for as in section three of this act; and in case such prosecution fail, the expenses thereof shall be paid out of the school fund of the city, or city and county, or school district, in which the case arose.

### Lists and reports.

Sec. 5. And it shall be the duty of the census marshal to furnish each board of education and of district trustees with a complete list of all children living within the jurisdiction of said board, and to note on such lists all children not attending colleges, college schools, private schools, or being taught at home, who are liable to the provisions of this act; and each teacher teaching within the limits of the jurisdiction of such board shall be supplied with a list of all children within his or her department or school, and shall call such list each morning on the opening of school, and note the absentees, and the reason of such absence, if any, and at the close of each term of twelve weeks shall make a full report to the board of education, or of district trustees, of all such cases of absence, with the names both of children and parents, guardians, or other persons having such children in charge, and said board shall thereupon forthwith proceed to prosecute such parents, guardians, or other persons, according to the provisions of this act.

Deaf, dumb, and blind.

Sec. 6. And whereas, the state has provided an institution for the gratuitous instruction of all resident deaf and dumb or blind children between the ages of six and twenty-one years, every parent or guardian of any child or children afflicted with deafness or blindness shall be required, under the penalties hereinbefore specified, to send such child or children to said institution for a period of not less than five years, unless such child or children shall have been excused by the authorities, and on the grounds specified in section one of this act.

Jurisdiction.

Sec. 7. Any justice of the peace of the proper city, or city and county, or school district, shall have jurisdiction of all offenses committed under the provisions of this act.

Sec. 8. This act shall be in force and effect from and after the first day of July, 1874.

An act to prevent discrimination against female teachers.

[Approved March 30, 1874; 1873-4, 938.]

Female teachers to receive same compensation as males.

Section 1. Females employed as teachers in the public schools of this state shall in all cases receive the same compensation as is allowed male teachers for like services when holding the same grade certificates.

Sec. 2. This act shall take effect and be in force from and after its passage.

An act to continue in force school teachers' certificates, state educational diplomas, and life diplomas.

[Approved February 5, 1880; 1880, 4 (Ban. ed. 4).]

Certificates and diplomas continued in force.

Section 1. All teachers' city, city and county, county, and state certificates, state educational diplomas, life diplomas, and all other teachers' certificates and diplomas issued in the state of California, under and in pursuance of the laws thereof, on or before the thirty-first day of De-



ember, A. D. eighteen hundred and seventy-nine, shall be and the same are hereby continued in full force and effect, and shall be deemed valid for all purposes and to the full extent of time that the same were and were intended respectively to be under the said laws, on and before the said thirty-first day of December, A. D. eighteen hundred and seventy-nine.

Sec. 2. This act shall take effect from and after its passage.

An act to continue in operation the public schools of this state.

[Approved March 6, 1880; 1880, 7 (Ban. ed. 14).]

Issuance of temporary certificate.

Section 1. The county superintendent of schools of each and every county in this state is hereby empowered to issue a temporary certificate to any teacher whose certificate has expired, or shall expire between the first day of January, eighteen hundred and eighty, and the first day of June, eighteen hundred and eighty. The certificate so granted shall be of the same grade as the one in place of which it is issued, and shall be valid only until the first meeting of the board which shall be competent to issue teachers' certificates.

Sec. 2. This act shall take effect immediately.

An act to protect the school districts of this state from injury during the year eighteen hundred and eighty, by the operation of section twelve of article thirteen of the constitution.

[Approved April 15, 1880; 1880, 75 (Ban. ed. 261).]

This act declared that school districts should not forfeit their school funds prior to June 30, 1880, by reason of any change in the mode of payment of the funds, and provided for the payment of teachers' salaries until June 30, 1880.

## SCHOOL LANDS.

See State Lands.

## TITLE 247.

## SEDUCTION.

Acts relating to: See Penal Code, Appendix, title "Seduction," p. 653.

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## TITLE 248.

## SETTLERS.

An act for the protection of pre-emption and homestead claimants.

[Approved March 23, 1874; 1873-4, 543.]

Title of pre-emption claimants.

Section 1. Every qualified pre-emption claimant under the pre-emption laws of the United States, residing on public lands of the United States within this state, who shall have filed his declaratory statement in accordance with said pre-emption laws, shall, from the time of said filing be deemed to have title to and to be in possession of all the land described in such declaratory statement as against trespassers and all persons having no superior right or title to the same, as long as he shall continue to reside thereon, and to comply in good faith with said pre-emption laws.

Title of homestead claimants.

Sec. 2. Every qualified homestead claimant under the homestead laws of the United States, residing on public land of the United States within this state, who shall have made his original homestead entry in accordance with said laws, shall from the date of such entry, be deemed to have title to and to be in possession of all the land described in such entry, as against trespassers and all persons having no superior right or title to the same, as long as he shall continue to reside thereon, and to comply in good faith with said homestead laws.

Construction of act.

Sec. 3. Nothing in this act shall be construed

to either restrict or enlarge the right of bona fide miners to mine for precious metals on the public domain, or to change any general or special laws of this state concerning the grazing of animals on lands not fenced.

Sec. 4. This act shall take effect from and after its passage.

In regard to settlers upon public lands of the state, see the Political Code, and particularly sections 3443 and 3497.

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## TITLE 249.

### SEWERS.

See Streets.

An act to confer power upon supervisors, or other governing body of counties, and cities and counties, to extend and complete all main intercepting sewers heretofore partially constructed.

[Approved March 14, 1881; Stats. 1881, 76.]

To complete intercepting sewers.

Section 1. The board of supervisors, or other governing body of any county, or city and county, in this state, shall have power, and it shall be the duty of said board of supervisors, or other governing body, whenever they deem it necessary to promote the sanitary condition of such city and county, to complete all main intercepting sewers heretofore constructed, or partially constructed, at the expense of such county, or city and county, also to extend the same to a suitable and proper outlet, deemed necessary for the protection of life and property in the judgment of said board of supervisors, or other governing body, the expense thereof and consequent thereto to be chargeable to and to be paid out of the general fund of the treasury of such county, or city and county, not to exceed the sum of ninety thousand dollars.

Sec. 2. This act shall take effect and be in force from and after its passage.

## TITLE 250.

## SHASTA COUNTY.

A reference to local acts relating to Shasta county is contained in Deering's Annotated Penal Code, pp. 692, 693.

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## TITLE 251.

## SHEEP.

See Goats.

A collection of the acts relating to Sheep is contained in Deering's Penal Code, pp. 693-698.

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## TITLE 252.

## SHERIFFS.

Acts relating to: See Penal Code, Appendix, title, Sheriffs, p. 654; Political Code, Appendix, title, Sheriffs, p. 1060.

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## TITLE 253.

## SIERRA COUNTY.

A reference to local acts relating to Sierra county is contained in Deering's Annotated Penal Code, pp. 698, 699.

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## TITLE 254.

## SILK CULTURE.

Consult the following acts:

An act to establish a state board of silk culture, and to provide moneys for the expenses thereof. [Approved March 15, 1883; 1883, 369.]

An act to establish a state board of silk culture, and to provide moneys for the expenses thereof. [Approved March 18, 1885; 1885, 216.]

*Repealed*

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## TITLE 255.

### SISKIYOU COUNTY.

A reference to the local acts relating to Sierra county can be found in Deering's Annotated Penal Code, pp. 702 and 703.

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## TITLE 256.

### SOLANO COUNTY.

A reference to the local acts relating to Solano county is contained in Deering's Annotated Penal Code, pp. 703-707.

An act to locate the county seat of Solano county. [Approved March 28, 1874; 1873-4, 783.]

## STATE CAPITOL.

Many acts relating to the state capitol have been passed, but they are not inserted, as they refer mainly to the improvement of the grounds and building.

Act to prevent sale of liquor at: See Penal Code, Appendix, p. 581.

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## TITLE 257.

### SOLDIERS AND SAILORS.

Consult the following acts:

An act to recognize the veterans' home at Yountville as a state home for the maintenance

of disabled soldiers and sailors of the United States, and to designate an officer to receive moneys appropriated by the United States on account of said home. [Approved March 19, 1889; 1889, 418.]

An act to provide for the building and furnishing of the home for soldiers' widows and orphans and army nurses, and for the state to inquire into the management of such institution by a uniform rule proportioned to the number of inmates in said institution, for the management of the same, and for the support of indigent persons residing in the said home. [Approved March 16, 1889; 1889, 206.]

And the amendment of this act approved March 31, 1891; Stats. 1891, p. 428.

An act entitled "An act to prevent persons from unlawfully using or wearing the badge of the Grand Army of the Republic of this state." [Approved March 10, 1887; 1887, 82.]

An act to provide for the burial of ex-Union soldiers, sailors, and marines, in this state, who may hereafter die without leaving sufficient means to defray funeral expenses. [Approved March, 15, 1889; 1889, 198.]

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## TITLE 258.

### SONOMA COUNTY.

A reference to the local acts relating to Sonoma county is contained in Deering's Annotated Penal Code, pp. 705-707.

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## TITLE 259.

### SQUIRRELS AND GOPHERS.

There are in force in a few of the counties special and local acts designed for the destruction of squirrels and gophers. These may be found by referring to Deering's Annotated Penal Code, pp. 707-708.



## TITLE 260.

## STALLIONS.

The Political Code, sec. 19, in continuing in force all acts in relation to lawful fences, estrays, and the trespassing of animals upon private property, seems to have continued in force the acts concerning stallions:

These acts are collected in Deering's Annotated Penal Code, pp. 708-710.

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TITLE 261.

## STAMPS.

An act to provide for the redemption of unused and uncanceled stamps of the state of California, heretofore sold. [Approved April 1, 1876; 1875-6, 727.]

This special act provides for the appropriation of ten thousand five hundred and forty-five dollars and forty-one cents with which to redeem unused and uncanceled state stamps issued under an act to provide revenue for the government of this state, approved March 9, 1861. It is not deemed of sufficient importance to give in full or do more than refer to it.

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TITLE 262.

## STANISLAUS COUNTY.

A reference to local acts relating to Stanislaus county is contained in Deering's Annotated Penal Code, pp. 710, 711.

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TITLE 263.

## STATE.

Acts relating to: See Code of Civil Procedure. Appendix, title, State, p. 868 et seq.; Political Code, p. 1061.

## TITLE 264.

## STATE ANALYST.

Acts relating to: See Political Code, Appendix, title, State Analyst, p. 1062.

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## TITLE 265.

## STATE CAPITOL.

Act prohibiting sale of liquor approved April 16, 1880; Stats. 1880, p. 80, Ban. ed. 273. Many acts have been passed relating to State Capitol, but as they principally were appropriation bills for the improvement of the building or grounds, they have not been incorporated herein. A constitutional amendment to remove the state capitol from Sacramento to San Jose was passed in 1893; Statutes 1893, p. 657, but was held invalid in *Livermore v. Waite*, 102 Cal. 113. Consult Deering's Annotated Penal Code, pp. 690 and 691.

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## TITLE 266.

## STATE LANDS.

An act providing for the presentation and cancellation of unlocated school land warrants of the state of California, issued under the act of the state of California, approved May 3, 1852, providing for the disposal of the five hundred thousand acres of land donated to the state of California by the government of the United States, and authorizing the controller of this state to draw his warrant on the state treasurer for the sum of two dollars per acre, in favor of any bona fide owner and holder of any such land warrant, for every acre represented by any such land warrant.

[Approved March 23, 1893; Stats. 1893, p. 181.]

An act to provide for the applications for purchase of sixteenth and thirty-sixth sections, and to regulate the application for purchase of such sections, and requiring a deposit to accompany all applications for the purchase of the same.

[Approved March 20, 1889; 1889, 434.]

Purchase of sixteenth and thirty-sixth sections.

Section 1. Every application to purchase any portion of the sixteenth and thirty-sixth sections shall be accompanied by a deposit of twenty dollars, in addition to the fee for filing now required by law, for which the surveyor general shall give the applicant a receipt, which receipt shall be accepted by the county treasurer in part payment of the purchase price of said land. If the applicant shall abandon or forfeit his said application, or shall fail to make proper proof as to the character of the said land, or as to his residence thereon, within the time allowed by law, or if his application shall be rejected by reason of any false statement in the affidavit herein contained, the twenty dollars thus paid shall go to the state school fund. If it is found that the surveyor general erred in receiving the application, or that the state cannot make a good title to the land, then the applicant or his assigns may surrender to the surveyor general the said receipt, and receive in exchange therefor a certificate showing the amount so paid, and the reason why the application could not be approved or perfected, and the controller, upon the surrender to him of the said surveyor general's certificate, shall issue to the applicant, or his assigns, a warrant for the said amount.

Filings.

Sec. 2. Any number of filings on any section of land is hereby permitted and allowed under the provisions of this act. Should the first filing be abandoned by the applicant, the next filing on such section, in order, shall have the same right as if it had been the first filing.

Moneys to go to school land deposit fund.

Sec. 3. The moneys received by the surveyor general under the provisions of this act, except

the moneys forfeited under section one, shall be paid to the state treasurer at the close of each month, and must be placed in a fund, to be called school land deposit fund, to the credit of the county in which the lands applied for are situated. When any moneys are placed in the school deposit fund to the credit of a county, the controller, at the next settlement with the controller by the treasurer of such county, must draw his warrant upon the state treasurer for the amount in the fund to the credit of the county; provided, that the direction herein to the controller is exempted from the operations of section six hundred and seventy-two of the Political Code.

An act respecting the payment in full by holders of certificates of purchase for lands sold by the state of California prior to March 27, 1872, and for which the said state has at any time heretofore issued certificates of purchase to subsequent purchasers.

[Approved March 20, 1889; 1889, 428.]

When holders of certificates of purchase of state lands deemed to have forfeited their rights therein.

Section. 1. Whenever application has been made to purchase lands from this state, and payment only in part has been made to the treasurer of the proper county for the same, and a certificate of purchase has been issued to the applicant prior to the twenty-seventh day of March, eighteen hundred and seventy-two, and whenever such applicant, his assignee or assignees, shall have failed for five years to pay to the state the arrears of principal or of interest due to the state for said land, and the state shall at any time heretofore have issued a certificate of purchase for the same land, or any part thereof, to a subsequent purchaser, then, unless the holder or holders of such prior certificate shall pay the entire residue of the interest remaining unpaid for such purchase within six months from and after the passage of this act, such holder or holders shall be deemed to have lost all right to the land described in said certificate, or to complete the purchase of such land,

and all moneys heretofore paid to the state of California on such purchase shall be deemed and taken to be forfeited to the state. Nothing herein contained, however, shall be deemed or taken to give to or confer upon the holder or holders of such prior certificates, or any of them, as against the state of California, or any subsequent purchasers therefrom, or against the holders of subsequent certificates of purchase, any other or greater right to the lands herein referred to than is now held by the holder or holders of such prior certificates, or to confer upon such holder or holders any new right, or to affect or impair the rights of such subsequent purchasers or their assigns.

Previous part payment confers no special rights—  
Does not apply.

Sec. 2. The mere fact of previous part payment shall not of itself confer on such prior purchaser or his assigns any right to complete the purchase, if he or they be not otherwise entitled so to do, as against the state, and a subsequent purchaser or his assigns; provided, that this act shall not apply to any action now pending commenced within five years.

Sec. 3. This act shall take effect from and after the date of its passage.

In addition consult the following acts:

An act ceding to the United States of America jurisdiction over all lands within this state which have been or may hereafter be acquired by the United States for military purposes. [Stats. approved March 2, 1897; Stats. 1897, chap. lvi.]

An act ceding to the United States of America jurisdiction over lands in this state ceded to the United States. [Approved March 31, 1891; Stats. 1891, p. 262.]

An act relinquishing to the United States of America the title of this state to certain lands. [Stat. approved March 9, 1897; Stats. 1897, chap. lxxxi.]

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Revised  
Revised

3432 2-1

An act to authorize the governor and suveryor-general to sell and convey the state's interest in certain lands. [Approved March 31, 1891; Stats. 1891, p. 251.]

An act to legalize applications heretofore made for the purchase of lands belonging to this state, and to confirm the title of the purchasers under such applications.

[Approved March 27, 1872; 1871-2, 622.]

An act for the relief of purchasers of state lands. [Approved March 27, 1872; 1871-2, 587; Amended April 1, 1875; 1877-8, 914.]

An act entitled "An act to enable purchasers of state lands to redeem the same, where their titles have been or may hereafter be foreclosed for non-payment of interest."

[Approved March 7, 1881; Stats. 1881, 65.]

An act to provide for an examination into the sale and disposal of state lands.

[Approved April 1, 1876; 1875-6, 798.]

An act to protect bona fide settlers upon public lands.

[Approved March 23, 1874; 1873-4, 543.]

An act to reserve from sale the north half of section sixteen in township seven south and range three east, Monte Diablo meridian.

[Approved April 1, 1876; 1875-6, 679.]

An act for the protection of settlers on public lands claimed by the state.

[Approved March 10, 1874; 1873-4, 327.]

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## TITLE 267.

### STATE PRINTER.

Acts relating to: See Political Code, Appendix, title, State Printer, p. 1064.



## TITLE 268.

## STATE PRISONS.

Acts relating to: See Penal Code, Appendix, title, State Prisons, p. 654.

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## TITLE 269.

## STATUTE OF LIMITATIONS.

Acts relating to: See Code of Civil Procedure, Appendix, title, Statute of Limitations, p. 874 et seq.

## TITLE 270.

## STEVENSON, ACT FOR RELIEF OF.

An act for the relief of Colonel Jonathan D. Stevenson, and to appropriate money therefor. [Approved March 31, 1891; Stats. 1891, p. 260.]

The act appropriated \$125 a month for twenty-one months for the purpose indicated.

## TITLE 271.

## STOCKTON.

An act to provide for the construction and maintenance of an open canal from and along North street, in the city of Stockton, county of San Joaquin, state of California, to the San Joaquin river, for sanitary and drainage purposes, and to appropriate money therefor. [Approved March 12, 1887; 1887, 109.]

The act authorized the directors of the Insane Asylum to construct the above canal.

Gen. Laws—92.

## TITLE 272.

## STREETS.

An act to provide for the planting, maintenance, and care of shade trees upon streets, lanes, alleys, courts, and places within municipalities, and of hedges upon the lines thereof; also, for the eradication of certain weeds within city limits.

[Approved March 11, 1893; Stats. 1893, p. 153.]

Section 1. All streets, lanes, alleys, places, or courts in the municipalities of this state now open or dedicated, or which may hereafter be opened or dedicated, to public use, whose grade has been officially established, and which have been actually graded in conformity therewith, may be planted with shade trees, along the edges of the sidewalks thereof, by order of the city council, which shall have power, also, to provide for the maintenance and care of the same; and the city council shall have power to prescribe the height, thickness, and manner of trimming of all hedges set out, or that shall be hereafter set out, along the line of any street, lane, alley, place, or court dedicated to public use, whether graded or not, and to compel compliance with its ordinances in the premises by the owners or occupants of the lots fronting thereon. The powers hereby conferred upon city councils shall be exercised in the manner and under the proceedings hereinafter described.

Sec. 2. The city council of any municipality in the state may, at its discretion, pass a resolution of intention to plant, or cause to be planted, with shade trees, any graded street, lane, alley, place, or court within the limits of such municipality. Such resolution of intention may embrace the entire length of any street, lane, alley, place, or court, or any portion thereof, but must specify the kind of trees to be planted, their size, age and their distance apart. The street superintendent shall thereupon cause to be conspicuously posted along both sides of the street mentioned in the resolution at not more than three hundred feet

in distance apart, notices of the passage of said resolution. Said notice shall be headed "Notice to Plant Shade Trees," in letters not less than one inch in length, and shall, in legible characters, set forth the language of the resolution and the date of its passage. The city clerk shall also cause a copy of the resolution to be published for six days in one or more daily newspapers published and circulated in said city, and designated by said city council.

Sec. 3. The owners of a majority of the frontage of the property on both sides of the street proposed to be planted as aforesaid may, within ten days after the expiration of the time of publication of said resolution, file their written statement of objections to the proposed work with the city clerk, which must be signed by the objectors, each one writing after his or her name the number of feet frontage owned by him or her. Such objection must show wherein the parties making them will be injured or aggrieved by the proposed work, and if the objection be to the kind of trees proposed to be planted, they must name some other kind of tree to be substituted therefor. The city council shall, at its next meeting after the filing of said objections, fix a time for hearing the same, not less than one week thereafter. The city clerk shall thereupon notify each objector, or his agent, who has signed his or her name to the statement, by depositing, in the postoffice of said city, a notice addressed to him or her, postage prepaid, notifying the objectors of the time and place of hearing. At the time specified, the council shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive, except that in the choice of trees to be planted, it shall be governed by the written request of the owners of a majority of the frontage on both sides of the street which it is proposed to plant. If the objections be sustained, no further proceedings shall be taken under the resolution of intention for six months after the date of its passage. If it be again proposed to plant the street, the council shall commence proceedings de novo as if no action had been previously taken.

Sec. 4. At the expiration of ten days after the expiration of the time of publication of said resolution of intention, if no written objections to the

work therein described shall have been filed with the city clerk, as hereinbefore provided, otherwise, immediately upon the overruling of the objections by the council, the council shall be deemed to have acquired jurisdiction to order to be done the work which is authorized by this act, which order shall be published for two days in the same papers and manner as provided for the publication of the resolution of intention.

Sec. 5. Before passing any resolutions for the planting of any street, the city council shall cause notice, with specifications, to be posted conspicuously for five days near the door of the council chamber, and shall advertise the same for five days in the same manner and papers as heretofore provided for the publication of the resolution of intention, inviting sealed proposals for bids for furnishing the trees and doing the work ordered. All bids shall state the sum or price for which the bidder will undertake to furnish the trees, of the kind, age, and size required, and will suitably prepare the ground, set out the trees, warrant every one of them to grow, or replace all that fail to grow or receive damage from whatever cause with others of the same kind, and of suitable age and size to preserve uniformity, and will for three years care for, cultivate, protect, irrigate, and trim said trees. And no order for the planting of any street shade trees shall be made that does not likewise provide for the care and maintenance of the trees for three years by the contractor planting the trees. All proposals or bids shall be accompanied by a check payable to the order of the mayor or president of the city council, certified by a responsible bank, for an amount which shall not be less than ten per cent of the aggregate of the proposal. Said proposals or bids shall be delivered to the clerk of the city council, indorsed "Proposals to plant trees," and said council shall, in open session, examine and publicly declare the same; provided, that no proposal or bid shall be considered unless accompanied by said check. The council may reject all proposals, should it deem this for the public good, and shall reject the bid of any party who has been delinquent or unfaithful in any former contract with the municipality, and may award the contract to the lowest responsible bidder, at the prices named in his

bid, which award shall be approved by the mayor or president of the council. Notice of such awards of contract shall be posted and advertised for five days, in the manner hereinbefore provided, and it shall be the duty of the superintendent of streets to enter into a contract with the bidder to whom the work shall have been awarded by the council, and at the prices specified in his bid; whereupon the certified checks of all the other bidders shall be returned to them, respectively. But if such lowest bidder neglects, fails, or refuses, for fifteen days after the first posting and publication of the award, to enter into the contract, then the city council, without further proceedings, shall again advertise for proposals or bids, as in the first instance, and shall award the contract for said work to the then lowest bidder. If the contractor who shall have taken any contract shall not complete the planting within the time limited in the contract, or within such further time as the council may give him, the superintendent of streets shall report such delinquency to the council, which may relet the unfinished portion of the planting and the future care of the trees, after pursuing the formalities hereinbefore prescribed for the letting of the whole in the first instance.

Sec. 6. All contractors shall, at the time of executing any contract for the planting and care of trees, execute a bond to the satisfaction of the mayor or president of the city council, with two or more sureties, and payable to the city in such sums as the mayor or president of the council shall deem adequate, conditioned for the faithful performance of the contract, and the sureties shall justify before the recorder or a justice of the peace, in double the amount mentioned in such bond, over and above all statutory exemption. Before being entitled to any contract, the bidder to whom the award shall have been made must pay into the city treasury the cost of the publication of notices, resolutions, and orders, and all other incidental expenses required under the proceedings prescribed by this act.

Sec. 7. All work done under the provisions of this statute shall be executed under the direction of the superintendent of streets, whose duty it shall be, under the general control of the council, to see that all the obligations assumed by con-

tractors towards the city are faithfully complied with, and that all trees furnished are sound, healthy, free from infection by insects, and of the kind, size, and age called for by the contract. He shall certify to the completion of all work, or portion of work, which, by the terms of the contract, shall entitle the contractor to payment in whole or in part, and the presentation of his certificate by the contractor shall be a condition precedent to each payment that shall become due under the contract.

Sec. 8. All sums due to contractors under the provisions of this act shall be payable by installments, as follows, to wit: Not more than one-half the entire consideration in the contract shall be payable on the completion of the planting, and out of this amount the superintendent of streets shall see that the trees are paid for, to the party furnishing the same; one half the balance at the end of eighteen months after the completion of the planting; provided, all conditions shall have been complied with; the remaining one half to be paid at the end of three years after the completion of the planting; provided, all conditions shall have been complied with.

Sec. 9. Immediately upon the execution of any contract for the planting and care of street trees under the provisions of this act, it shall be the duty of the city assessor to make an assessment to cover the sum to become due for the work specified in such contract (including all incidental expenses) upon the lots and land fronting on the street, lane, alley, court, or place to which such contract relates, each lot or portion of a lot being separately assessed, in proportion to the frontage, at a rate per foot front sufficient to cover the total expenses of the work. Said assessment shall briefly refer to the contract, the work contracted for, and shall show the amount to be paid therefor, together with any incidental expenses, the rate per foot front assessed, the amount of each assessment, the name of the owner of each lot, if known to the assessor (if unknown, the word "Unknown" shall be written opposite the number or description of the lot, with the amount assessed thereon); and the assessor shall attach to said assessment a diagram, exhibiting the street, lane, alley, place, or court on which the work is



contracted to be done, and showing the relative location and frontage of such lot, numbered to correspond with the numbers in the assessment. To said assessment shall be attached a warrant, which shall be signed by the superintendent of streets, and countersigned by the mayor or president of the council. The said assessments and warrants shall be separately issued for each payment that shall be due the contractor, as specified in section eight of this act, and shall be substantially in the following form:—

By virtue hereof, I (name of the superintendent of streets), of the city of —, county of —, and state of California, by virtue of the authority vested in me as said superintendent of streets, do authorize and empower (name of contractor), his agents or assigns, to demand and receive the several assessments upon the assessment and diagram hereto attached, and this shall be his warrant for the same.

Date —, —. (Name of superintendent of streets.)

Countersigned by (name of mayor or president of council).

Recorded (date —, —). (Name of superintendent of streets.)

Said warrant, assessment, and diagram shall be recorded in the office of the superintendent of streets. When so recorded, the several amounts assessed shall be a lien upon the lands, lots, or portions of lots, assessed, respectively, for the period of two years from the date of said recording, unless sooner discharged. From and after the date of said record, all persons interested in any manner in any or all of the lots assessed shall be deemed to have notice of the contents of said record.

Sec. 10. After said warrant, assessment, and diagram shall have been recorded, the same shall be delivered to the contractor, his agents or assigns, on demand, who shall thereby be authorized to demand and receive the amounts of the several assessments. In default whereof, and as regards enforced collections, interest, cost, and penalties, and the correction of errors, the same proceedings are to be had as are specified in sections nine, ten, eleven, twelve, sixteen, and seventeen of an act entitled "An act to provide for work

upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, amended March fourteenth, eighteen hundred and eighty-nine.

Sec. 11. The city council of every municipality in this state has jurisdiction of the hedges and fences placed by property owners along street lines, and may, by ordinance, prohibit the planting of thorn-bearing hedges and the use of barbed wire along street lines, and may regulate the height, width, and the mode of trimming hedges, and enforce ordinances enacted for such purposes against absentees, or other negligent or recusant owners or occupants of lots or lands on which hedges are maintained. They may also condemn as public nuisances, any or all weeds whose seeds are of a winged or downy nature, and are spread by the winds, and may compel the eradication of such weeds by the owners of the lots whereon they grow, or at their expense.

Sec. 12. The city council or trustees of every municipality shall provide for the replacement of missing trees, and for the trimming and care of all trees that have or shall have been planted for three or more years in the streets and highways, whether such planting shall have been done under this act or otherwise; the expense whereof must be defrayed out of the street fund, and the work be done by the superintendent of streets of such municipality.

Sec. 13. This act shall only apply to such municipalities as shall by vote of the electors residing therein determine to come within its provisions.

Sec. 14. This act shall take effect from and after its passage.

An act to provide for laying out, opening, extending, widening, straightening, or closing up in whole or in part any street, square, lane, alley, court, or place within municipalities, and to condemn and acquire any and all land and property necessary or convenient for that purpose. [Repealed as to cities over 40,000, post.]

[Approved March 6, 1889; 1889, 70.]

Laying out, opening, closing, etc., streets, lanes, alleys, etc.

Section 1. Whenever the public interest or convenience may require the city council of any municipality shall have full power and authority to order the opening, extending, widening, straightening, or closing up in whole or in part of any street, square, lane, alley, court, or place within the bounds of such city, and to condemn and acquire any and all land and property necessary or convenient for that purpose.

Resolution of council declaring intention to perform street work.

Sec. 2. Before ordering any work to be done or improvement made which is authorized by section one of this act, the city council shall pass a resolution declaring its intention to do so, describing the work or improvement, and the land deemed necessary to be taken therefor, and specifying the exterior boundaries of the district of lands to be affected or benefited by said work or improvement, and to be assessed to pay the damages, cost, and expenses thereof.

Street superintendent to post notice.

Sec. 3. The street superintendent shall then cause to be conspicuously posted along the line of said contemplated work or improvement, at not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notice shall be headed "notice of public work," in letters not less than one inch in length, shall be in legible characters, state the fact of passage of the resolution, its date, and, briefly, the work or improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice, similar in substance,

to be published for a period of ten days in one or more daily newspapers published and circulated in said city, and designated by said city council; or if there is no daily newspaper so published and circulated in said city, then by four successive insertions in a weekly or semi-weekly newspaper, so published, circulated, and designated.

Interested persons may file objections.

Sec. 4. Any person interested objecting to said work or improvement, or to the extent of the district of lands to be affected or benefited by said work or improvement, and to be assessed to pay the cost and expenses thereof, may make written objections to the same within ten days after the expiration of the time of the publication of said notice, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him, and at the next meeting of the city council after the expiration of said ten days lay said objections before said city council, which shall fix a time for hearing said objections, not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections, by depositing a notice thereof in the post office of said city, postage prepaid, addressed to such objector.

Decision of council to be final.

Sec. 5. At the time specified or to which the hearing may be adjourned, the said city council shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive. If such objections are sustained, all proceedings shall be stopped; but proceedings may be again commenced at any time by giving notice of intention to do said work or make said improvement. If such objection is overruled by the city council, the proceedings shall continue the same as if such objection had not been made. At the expiration of the time prescribed during which objections to said work or improvement may be made, if no objections shall have been made, or if an objection shall have been made, and said council, after hearing, shall have overruled the same, the city council shall be deemed to have acquired jurisdiction to order any of the work to be

done, or improvements to be made, which is authorized by section one of this act.

**Jurisdiction.**

Sec. 6. Having acquired jurisdiction as provided in the preceding section, the city council shall order said work to be done, and unless the proposed work is for closing up, and it appears that no assessment is necessary, shall appoint three commissioners to assess benefits and damages, and have general supervision of the proposed work or improvement until the completion thereof in compliance with this statute. For their services, they shall receive such compensation as the city council may determine from time to time; provided, that such compensation shall not exceed two hundred dollars per month each, nor continue more than six months, unless extended by order of the city council. Such compensation shall be added to and be chargeable as a part of the expenses of the work or improvement. Each of said commissioners shall file with the clerk of the city council an affidavit, and a bond to the state of California in the sum of five thousand dollars, to faithfully perform the duties of his office. The city council may at any time remove any or all of said commissioners for cause, upon reasonable notice and hearing, and may fill any vacancies occurring among them for any cause.

**Commissioners to employ assistance.**

Sec. 7. Said commissioners shall have power to employ such assistance, legal or otherwise, as they may deem necessary and proper; also to rent an office, and provide such maps, diagrams, plans, books, stationery, fuel, lights, postage, expressage and incur such incidental expenses as they may deem necessary.

**Expenses to be a charge upon the particular work required.**

Sec. 8. All such charges and expenses shall be deemed as expenses of said work or improvement, and be a charge only upon the funds devoted to the particular work or improvement as provided hereinafter. All payments, as well for the land and improvements taken or damaged, as for the charges and expenses, shall be paid by the city treasurer, upon warrants drawn upon said fund

from time to time, signed by said commissioners, or a majority of them. All such warrants shall state whether they are issued for land or improvements taken or damaged, or for charges and expenses, and that the demand is payable only out of the money in said fund, and in no event shall the city be liable for the failure to collect any assessment made by virtue hereof, nor shall said warrant be payable out of any other fund, nor a claim against the city.

Viewing of land—Examination of witnesses.

Sec. 9. Said commissioners shall proceed to view the lands described in the resolution of intention, and may examine witnesses on oath to be administered by any one of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land and the damage to improvements and property affected, and also the amount of the expenses incident to said work or improvement, and having determined the same shall proceed to assess the same upon the district of lands declared benefited, the exterior boundaries of which were fixed by the resolution of intention provided for by section two hereof. Such assessment shall be made upon the lands within said district in proportion to the benefit to be derived from said work or improvement, so far as the said commissioners can reasonably estimate the same, including in such estimate the property of any railroad company within said district, if such there be.

Report to council accompanied with a plat of the assessment district.

Sec. 10. Said commissioners having made their assessment of benefits and damage, shall, with all diligence, make a written report thereof to the city council, and shall accompany their report with a plat of the assessment district showing the land taken or to be taken for the work or improvement, and the lands assessed, showing the relative location of each district, block, lot, or portion of lot, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, taken or as-



essed, shall be designated and described in said plat by an appropriate number, and a reference to it by such descriptive number shall be a sufficient description of it in any suit entered to condemn, and in all respects. When the report and plat are approved by the city council, a copy of said plat, appropriately designated, shall be filed by the clerk thereof in the office of the recorder of the county.

Report, what must specify.

Sec. 11. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening or other improvement, or assessed therefor, together with the name of the owner or claimants thereof, or of persons interested therein as lessees, encumbrancers, or otherwise, so far as the same are known to such commissioners, and the particulars of their interest, so far as the same can be ascertained, and the amount of value or damage, or the amount assessed, as the case may be.

When set down to unknown owners.

Sec. 12. If in any case the commissioners find that conflicting claims of title exist, or shall be in ignorance or doubt as to the ownership of any lot of land, or of any improvements thereon, or of any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner or owners of any land or improvements, or of the particulars of their interest, shall not affect the validity of the assessment or of the condemnation of the property to be taken.

Filing of report and plat, and publication of.

Sec. 13. Said report and plat shall be filed in the clerk's office of the city council, and thereupon the clerk of said city council shall give notice of such filing by publication for at least ten days in one or more daily newspapers published and circulated in said city; or if there be no daily paper, by three successive insertions in a weekly or semi-weekly newspaper so published and circulated. Said notice shall also require all persons interested to show cause, if any, why such report should not be confirmed, before the city council,

on or before a day fixed by the clerk thereof, and stated in said notice, which day shall not be less than thirty days from the first publication thereof.

Objections must be in writing.

Sec. 14. All objections shall be in writing, and filed with the clerk of the city council, who shall, at the next meeting after the day fixed in the notice to show cause, lay the said objections, if any, before the city council, which shall fix a time for hearing the same, of which the clerk shall notify the objectors in the same manner as objectors to the original resolution of intention; at the time set, or at such other time as the hearing may be adjourned to, the city council shall hear such objections and pass upon the same; and at such time, or, if there be no objections, at the first meeting after the day set in such order to show cause, or such other time as may be fixed, shall proceed to pass upon such report, and may confirm, correct, or modify the same, or may order the commissioners to make a new assessment, report, and plat, which shall be filed, notice given, and hearing had, as in the case of an original report.

Duty of clerk of council.

Sec. 15. The clerk of said city council shall forward to the street superintendent of the city a certified copy of the report, assessment, and plat, as finally confirmed and adopted by the city council. Such certified copy shall thereupon be the assessment roll. Immediately upon receipt thereof by the street superintendent, the assessment therein contained shall become due and payable, and shall be a lien upon all the property contained or described therein.

Duty of superintendent of streets on receiving certified copy of report as confirmed by council.

Sec. 16. The superintendent of streets shall thereupon give notice by publication for ten days in one or more daily newspapers published and circulated in such city or city and county, or by two successive insertions in a weekly or semi-weekly newspaper so published and circulated, that he has received said assessment roll, and that all sums levied and assessed in said assessment roll are due and payable immediately, and that

the payment of said sums is to be made to him within thirty days from the date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per cent upon the amount of each delinquent assessment, together with the cost of advertising each delinquent assessment, will be added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "paid," and the date of payment, opposite the respective assessment so paid, and the names of persons by or for whom said assessment is paid, and shall, if so required, give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment roll, and shall add five per cent to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of said delinquency, proceed to advertise and collect the various sums delinquent, and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of such sale herein provided for, no assessment shall be received unless at the same time the five per cent added thereto, as aforesaid, together with the costs of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments shall be published daily for five days in one or more daily newspapers published and circulated in such city, or by at least one insertion in a weekly newspaper so published and circulated, before the day of sale of such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption in the

same time and manner as in sales for delinquent state and county taxes; and the superintendent of streets may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law, in reference to the sale and redemption of property for delinquent state and county taxes in force at any given time, shall also then, so far as the same are not in conflict with the provisions of this act, be applicable to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and execution of deeds. The deed of the street superintendent made after such sale, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings hereunder, and of title in the grantee. It shall be conclusive evidence of the necessity of taking or damaging the lands taken or damaged, and of the correctness of the compensation awarded therefor. The superintendent of streets shall, from time to time, pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place the same in a separate fund, designating such funds by the name of the street, square, lane, alley, court, or place for the widening, opening, or other improvement of which the assessment was made. Payments shall be made from said fund to the parties entitled thereto, upon warrants signed by the commissioners, or a majority of them.

Payments for land and improvements, when and how made.

Sec. 17. When sufficient money is in the hands of the city treasurer, in the fund devoted to the proposed work or improvement, to pay for the land and improvements taken or damaged, and when in the discretion of the commissioners, or a majority of them, the time shall have come to make payments, it shall be the duty of the commissioners to notify the owner, possessor, or occupant of any land or improvements thereon to whom damages shall have been awarded, that a warrant has been drawn for the payment of the same, and that he can receive such warrant at the office of such commissioners upon tendering a con-

veyance of any property to be taken; such notification, except in the case of unknown owners, to be made by depositing a notice, postage paid, in the postoffice, addressed to his last known place of abode or residence. If at the expiration of thirty days after the deposit of such notice, he should not have applied for such warrant, and tendered a conveyance of the land to be taken, the warrant so drawn shall be deposited with the county treasurer, and shall be delivered to such owner, possessor, or occupant, upon tendering a conveyance as aforesaid, unless judgment of condemnation shall be had, when the same shall be canceled.

Proceedings to condemn on refusal to accept payment.

Sec. 18. If any owner of land to be taken neglects or refuses to accept the warrant drawn in his favor, as aforesaid, or objects to the report as to the necessity of taking his land, the commissioners, with the approval of the city council, may cause proceedings to be taken for the condemnation thereof, as provided by law under the right of eminent domain. The complaint may aver that it is necessary for the city to take or damage and condemn the said lands, or an easement therein, as the case may be, without setting forth the proceedings herein provided for, and the resolution and ordinance ordering said work to be done shall be conclusive evidence of such necessity. Such proceeding shall be brought in the name of the municipality, and have precedence so far as the business of the court will permit; and any judgment for damages therein rendered shall be payable out of such portion of the special fund as may remain in the treasury, so far as the same can be applied. At any time after trial and judgment entered, or preceding an appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from the fund appropriated to the particular improvement to answer the judgment and all damages, and thereupon may authorize and order the municipality to enter upon the land and proceed with the proposed work and improvement. In case of a deficiency in said fund to pay the whole of such judgment and damages,

the city council may, in their discretion, order the balance thereof to be paid out of the general fund of the treasury or to be distributed by the commissioners over the property assessed by a supplementary assessment; but in the last-named case, in order to avoid delay, the city council may advance such balance out of any appropriate fund in the treasury, and reimburse the same from the collections of the assessment. Pending the collection and payment of the amount of the judgment and damages, the court may order such stay of proceedings as may be necessary.

**Duty of treasurer on payment of warrants.**

Sec. 19. The treasurer shall pay such warrants out of the appropriate fund, and not otherwise, in the order of their presentation; provided, that warrants for land or improvements taken or damaged shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money is and remains in the fund to pay all warrants of the first class before paying any of the second.

**Supplementary assessments, when may be ordered.**

Sec. 20. If after the sale of the property for delinquent assessments there should be a deficiency, and there should be unreasonable delay in collecting the same, or if for the purpose of equalizing the assessments supplying a deficiency, or for any cause it appear desirable, the commissioners may so report to the city council, who may order them to make a supplementary assessment and report the same in manner and form as the original, and subject to the same procedure. If by reason of such supplementary assessment, or for any cause, there should be at any time a surplus, the city council may appropriate the same and declare a dividend pro rata to the parties paying the same, and they, upon demand, shall have the right to have the amount of such pro rata dividends refunded to them, or credited upon any subsequent assessment for taxes made against said parties in favor of said city.

**Proceedings to settle defective title.**

Sec. 21. If any title attempted to be acquired by virtue of this act shall be found to be defective



from any cause, the city council may again institute proceedings to acquire the cause as in this act provided, or otherwise, or may authorize the commissioners to purchase the same and include the cost thereof in a supplementary assessment as provided in the last section.

Proceedings when boundaries of districts of lands affect the whole city.

Sec. 22. If the city council deem it proper that the boundaries of the districts of lands to be affected and assessed to pay the damages, cost, and expenses of any work or improvement under this act, shall include the whole city, then the commissioners appointed shall proceed in a summary manner to purchase the lands to be taken or condemned from the owners and claimants thereof. If said commissioners and the owners and claimants cannot agree upon the price to be paid for said lands, they shall proceed to view and value the same, and shall thereupon make a summary report to the city council. Upon final confirmation of the report, the city council, if there be not sufficient money available in the city treasury, shall cause the cost and expenses of the contemplated public improvement to be assessed upon the whole of the taxable property of said city, and to be included in and form part of the next general assessment roll of said city, and with like effect in all respects as if the same formed a part of the city, state, and county taxes; and when the same shall have been collected the said city council shall cause the land required to be paid for or the value thereof tendered, and the said contemplated public improvement to be forthwith made and completed. All the provisions of the preceding sections not in conflict with this section shall be applicable thereto.

Use of words "work" and "improvement."

Sec. 23. 1. The words "work" and "improvement," as used in this act, shall include all work mentioned in section one of this act.

Notices to be posted when publication cannot be had.

2. In case there is no daily or weekly or semi-weekly newspapers printed and circulated in the city, then such notices as are herein required to be

published in a newspaper shall be posted and kept posted for the length of time required herein for the publication of the same in a weekly newspaper, in three of the most public places in such city. Proof of the publication or posting of any notice provided for herein shall be made by affidavit of the owner, publisher or clerk of the newspaper or of the poster of the notice.

Construction of words "municipality" and "city."

3. The word "municipality" and the word "city" shall be understood and so construed as to include all corporations heretofore organized and now existing, or hereafter organized, for municipal purposes.

Construction of terms "street superintendent" and "superintendent of streets."

4. The terms "street superintendent" and "superintendent of streets," as used in this act, shall be understood and so construed as to include, and are hereby declared to include, any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof, in any city. In all those cities where there is no street superintendent or superintendent of streets, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent or superintendent of streets; and all the provisions hereof applicable to the street superintendent or superintendent of streets shall apply to such persons so appointed.

Construction of term "city council."

5. The term "city council" is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

Construction of terms "clerk" and "city clerk."

6. The term "clerk" and "city clerk," as used in this act, is hereby declared to include any person or officer who shall be clerk of said city council.

Construction of terms "treasurer" and "city treasurer."

7. The term "treasurer" or "city treasurer," as used in this act, shall include any person or officer

who shall have charge and make payment of the city funds.

8. No publications or notice other than that provided for in this act shall be necessary to give validity to any proceedings had thereunder.

Proceedings commenced before passage of this act to be continued by resolution of council.

Sec. 24. The proceedings and any work or improvement, such as is provided for in this act, already commenced, and now progressing under any other act now in force, or by virtue of any ordinance passed by any city council or board of supervisors of any city, county, or city and county, by virtue of any other act now in force, may, from any stage of such proceedings already commenced and now progressing, be continued under this act by resolution of the city council. The said work or improvement may then be conducted under the provisions of this act with full force and effect in all respects, from the stage of such proceedings under such other acts or ordinances at and from which such resolution shall declare an election or intention to have said work or improvement cease under such other act or ordinance, and continue under this act; and from such election so made, all proceedings theretofore had under such other act or ordinance are hereby ratified, confirmed, and made valid, and it shall be unnecessary to renew or conduct over again proceedings had under such other act or ordinance. This section shall not apply to any work or improvement, proceedings in which were commenced more than eighteen months prior to the passage of this act.

Act to be liberally construed.

Sec. 25. The provisions of this act shall be liberally construed to promote the objects thereof. This act shall take effect and be in force from and after its passage.

An Act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for the construction of sewers within municipalities.

[Approved March 18, 1885; Stats. 1885, p 147.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

### Part I.

Section 1. All streets, lanes, alleys, places, or courts, in the municipalities of this state now open or dedicated, or which may hereafter be opened or dedicated to public use, shall be deemed and held to be open public streets, lanes, alleys, places, or courts, for the purposes of this act, and the city council of each municipality is hereby empowered to establish and change the grades of said streets, lanes, alleys, places, or courts, and fix the width thereof, and is hereby invested with jurisdiction to order to be done thereon any of the work mentioned in section two of this act, under the proceedings hereinafter described.

Sec. 2. Whenever the public interest or convenience may require, the city council is hereby authorized and empowered to order the whole, or any portion, either in length or width, of the streets, avenues, lanes, alleys, courts, or places of any such city graded or re-graded to the official grade, planked or re-planked, paved or repaved, macadamized or re-macadamized, graveled or re-graveled, piled or re-piled, capped or recapped, sewerred or re-sewerred, and to order sidewalks, manholes, culverts, cesspools, gutters, tunnels, curbing, and cross-walks to be constructed therein, or to order breakwaters, levees, or walls of rock, or other material, to protect the same from overflow or injury, and to order any other work to be done which shall be necessary to complete the whole or any portion of said streets, avenues, sidewalks, lanes, alleys, courts, or places

and it may order any of the said work to be improved; and also to order a sewer or sewers, with outlets, for drainage or sanitary purposes, in, over, or through any right of way granted or obtained for such purpose; provided, that whenever the grade of a street, avenue, lane, alley, court, or place shall hereafter be changed, the petition of the owners of a majority of the feet fronting thereon, asking for grading the same to the new grade, shall be a condition precedent to the ordering of such grading to be done. [Amendment approved March 11, 1893; Stats. 1893, p. 172.]

Sec. 3. Before ordering any work done or improvement made, which is authorized by section two of this act, the city council shall pass a resolution of intention so to do, and describing the work, which shall be posted conspicuously for two days on or near the chamber door of said council, and published by two insertions in one or more daily, semi-weekly, or weekly newspapers published and circulated in said city, and designated by said council for that purpose. The street superintendent shall thereupon cause to be conspicuously posted along the line of said contemplated work or improvement, at not more than one hundred feet in distance apart, but not less than three in all, or when the work to be done is only upon an entire crossing or any part thereof, in front of each quarter block and irregular block liable to be assessed, notices of the passage of said resolution. Said notice shall be headed "Notice of Street Work," in letters of not less than one inch in length, and shall, in legible characters, state the fact of the passage of the resolution, its date, and briefly the work or improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice, similar in substance, to be published for six days in one or more daily newspapers published and circulated in said city, and designated by said city council, or in cities where there is no daily newspaper, by one insertion in a semi-weekly or weekly newspaper so published, circulated and designated. In

case there is no such paper published in said city, said notice shall be posted for six days on or near the chamber door of said council, and in two other conspicuous places in said city, as hereinafter provided. The owners of a majority of the frontage of the property fronting on said proposed way or improvement, where the same is for one block or more, may make a written objection to the same within ten days after the expiration of the time of the publication and posting of said notice, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him, and such objections so delivered and indorsed shall be a bar for six months to any further proceedings in relation to the doing of said work or making said improvements, unless the owners of the one-half or more of the frontage, as aforesaid, shall meanwhile petition for the same to be done. At any time before the issuance of the assessment roll, all owners of lots or lands liable to assessment therein, who, after the first publication of said resolution of intention, may feel aggrieved, or who may have objections to any of the subsequent proceedings of said council in relation to the performance of the work mentioned in said notice of intention, shall file with the clerk a petition of remonstrance, wherein they shall state in what respect they feel aggrieved, or the proceedings to which they object; such petition or remonstrance shall be passed upon by the said city council, and its decision therein shall be final and conclusive. But when the work or improvement proposed to be done is the construction of sewers, manholes, culverts, or cesspools, crosswalks, or sidewalks, and curbs, and the objection thereto is signed by the owners of a majority of the frontage liable to be assessed for the expense of said work, as aforesaid, the said city council shall, at its next meeting, fix a time for hearing said objections, not less than one week thereafter. The city clerk shall thereupon notify the persons making such



objections, by depositing a notice thereof in the postoffice of said city, postage prepaid, addressed to each objector, or his agent, when he appears for such objector. At the time specified said city council shall hear the objections urged, and pass upon the same, and its decisions shall be final and conclusive, and the said bar for six months to any further proceedings shall not be applicable thereto. And when not more than two blocks, including street crossings, remain ungraded to the official grade, or otherwise unimproved, in whole or in part and a block or more on each side upon said street has been so graded or otherwise improved, or when not more than two blocks at the end of a street remain so ungraded or otherwise unimproved, said city council may order any of the work mentioned in this act to be done upon said intervening ungraded or unimproved part of said street, or at the end of a street, and said work upon said intervening part, or at the end of a street, shall not be stayed or prevented by any written or other objection unless such council shall deem proper. And if one half or more in width or in length, or as to grading, one half or more of the grading work of any street lying and being between two successive main street crossings, or if a crossing has been already partially graded or improved as aforesaid, said council may order the remainder improved, graded or otherwise, notwithstanding such objections of property owners. At the expiration of twenty days after the expiration of the time of said publication by said street superintendent, and at the expiration of twenty-five days after the advertising and posting, as aforesaid, of any resolution of intention, if no written objection to the work therein described has been delivered, as aforesaid, by the owners of a major frontage of the property fronting on said proposed work or improvement, or if any written objection purporting to be signed by the owners of a major frontage is disallowed by said council, as not of itself barring said work for six months, because in its judgment, said ob-

jection has not been legally signed by the owners of a majority of said frontage, the city council shall be deemed to have acquired jurisdiction to order any of the work to be done, or improvement to be made, which is authorized by this act; which order, when made, shall be published for two days, the same as provided for the publication of the resolution of intention. Before passing any resolution for the construction of said improvements, plans and specifications and careful estimates of the costs and expenses thereof shall be furnished to said city council, if required by it, by the city engineer of said city; and for the work of constructing sewers, specifications shall always be furnished by him. Whenever the contemplated work of improvement, in the opinion of the city council, is of more than local or ordinary public benefit, or whenever, according to estimate to be furnished by the city engineer, the total estimated costs and expenses thereof would exceed one half the total assessed value of the lots and lands assessed, if assessed upon the lots or land fronting upon said proposed work or improvement, according to the valuation fixed by the last assessment roll whereon it was assessed for taxes for municipal purposes, and allowing a reasonable depth from such frontage for lots or lands assessed in bulk, the city council may make the expense of such work or improvement chargeable upon a district, which the said city council shall, in its resolution of intention, declare to be the district benefited by said work or improvement, and to be assessed to pay the costs and expenses thereof. Objections to the extent of the district of lands to be affected or benefited by said work or improvement, and to be assessed to pay the costs and expenses thereof, may be made by interested parties, in writing, within ten days after the expiration of the time of the publication of the notice of the passage of the resolution of intention. The city clerk shall lay said objections before the city council, which shall, at its next meeting, fix a time for hearing said objec-

tions not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections by depositing a notice thereof in the post-office of said city, postage prepaid, addressed to each objector. At the time specified the city council shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive. If the objections are sustained, all proceedings shall be stopped; but proceedings may be immediately again commenced by giving the notice of intention to do the said work or make said improvements. If the objections are overruled by the city council, the proceedings shall continue the same as if such objections had not been made. [Amendment approved March 31, 1891, Stats. 1891, p. 196.]

Sec. 4. The owners of a majority in frontage of lots and lands fronting on any street, avenue, lane, alley, place, or court, or of lots or lands liable to be assessed for the expense of the work petitioned to be done, or their duly authorized agents, may petition the city council to order any of the work mentioned in this act to be done, and the city council may order the work mentioned in said petition to be done, after notice of its intention so to do has been posted and published as provided in section three of this act. [Amendment approved March 31, 1891; Stats. 1891, p. 196.]

Sec. 5. Before the awarding of any contract by the city council for doing any work authorized by this act, the city council shall cause notice, with specifications, to be posted conspicuously for five days on or near the council chamber door of said council, inviting sealed proposals or bids for doing the work ordered, and shall also cause notice of said work inviting said proposal, and referring to the specifications posted or on file, to be published for two days in a daily, semi-weekly, or weekly newspaper published and circulated in said city, designated by the council for that purpose, and in case there is no newspaper published in said city, then it shall only be posted as here-

inbefore provided. All proposals or bids offered shall be accompanied by a check payable to the order of the mayor of the city, certified by a responsible bank, for an amount which shall not be less than ten per cent of the aggregate of the proposal, or by a bond for the said amount and so payable, signed by the bidder and by two sureties, who shall justify, before any officer competent to administer an oath, in double the said amount, and over and above all statutory exemptions. Said proposals or bids shall be delivered to the clerk of the said city council, and said council shall, in open session, examine and publicly declare the same; provided, however, that no proposal or bid shall be considered unless accompanied by said check or bond satisfactory to the council. The city council may reject any and all proposals or bids should it deem this for the public good, and also the bid of any party who has been delinquent and unfaithful in any former contract with the municipality, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work or improvement to the lowest responsible bidder at the prices named in his bid, which award shall be approved by the mayor or a three-fourths vote of the city council. If not approved by him, or a three-fourths vote of the city council, without further proceedings, the city council may readvertise for proposals or bids for the performance of the work as in the first instance, and thereafter proceed in the manner in this section provided, and shall thereupon return to the proper parties the respective checks and bonds corresponding to the bid so rejected. But the checks accompanying such accepted proposals or bids shall be held by the city clerk of said city until the contract for doing said work, as hereinafter provided, has been entered into, either by said lowest bidder or by the owners of three-fourths part of the frontage, whereupon said certified check shall be returned to said bidder. But if said bidder fails, neglects

or refuses to enter into the contract to perform said work or improvement, as hereinafter provided, then the certified check accompanying his bid and the amount therein mentioned, shall be declared to be forfeited to said city, and shall be collected by it and paid into its fund for repairs of streets, and any bond forfeited may be prosecuted, and the amount due thereon collected and paid into said fund. Notice of such awards of contracts shall be posted for five days, in the same manner as hereinbefore provided for the posting of proposals for said work, and shall be published for two days in a daily newspaper published and circulated in said city and designated by said city council, or in cities where there is no daily newspaper, by one insertion in a semi-weekly or weekly newspaper so published, circulated and designated; provided, however, that in case there is no newspaper printed or published in any such city, then such notice of award shall only be kept posted as hereinbefore provided. The owners of three-fourths of the frontage of lots and lands upon the streets whereon said work is to be done, or their agents, and who shall make oath that they are such owners or agents, shall not be required to present sealed proposals or bids, but may, within ten days after the first posting and publication of said notice of said award, elect to take said work and enter into a written contract to do the whole work at the price at which the same has been awarded. Should the said owners fail to elect to take said work, and to enter into a written contract therefor within ten days, or to commence the work within fifteen days after the first posting and publishing of said award, and to prosecute the same with diligence to completion, it shall be the duty of the superintendent of streets to enter into a contract with the original bidder to whom the contract was awarded, and at the prices specified in his bid. But if such original bidder neglects, fails or refuses, for fifteen days after the first posting and publication of the notice of award, to enter into

the contract, then the city council, without further proceedings, shall again advertise for proposals or bids, as in the first instance, and award the contract for the said work to the then lowest regular bidder. The bids of all persons and the election of all owners, as aforesaid, who have failed to enter into the contract as herein provided, shall be rejected in any bidding or election subsequent to the first for the same work. If the owner or contractor, who may have taken any contract, do not complete the same within the time limited in the contract, or within such further time as the city council may give them, the superintendent of streets shall report such delinquency to the city council which may relet the unfinished portion of said work, after pursuing the formalities prescribed hereinbefore for the letting of the whole in the first instance. All contractors, contracting owners included, shall, at the time of executing any contract for street work, execute a bond to the satisfaction and approval of the superintendent of streets of said city, with two or more sureties and payable to such city, in such sums as the mayor shall deem adequate, conditioned for the faithful performance of the contract; and the sureties shall justify before any person competent to administer an oath, in double the amount mentioned in said bond, over and above all statutory exemptions. Before being entitled to a contract, the bidder to whom the award was made, or the owners who have elected to take the contract, must advance to the superintendent of streets, for payment by him, the cost of publication of the notices, resolutions, orders, or other incidental expenses and matters required under the proceedings prescribed in this act, and such other notices as may be deemed requisite by the city council. And in case the work is abandoned by the city before the letting of the contract, the incidental expenses incurred previous to such abandonment shall be paid out of the city treasury. [Amendment approved March 31, 1891; Stats. 1891, p. 196.]



Sec. 6. The superintendent of streets is hereby authorized, in his official capacity, to make all written contracts, and receive all bonds authorized by this act, and to do any other act, either express or implied, that pertains to the street department under this act; and he shall fix the time for the commencement, which shall not be more than fifteen days from the date of the contract, and for the completion of the work under all contracts entered into by him, which work shall be prosecuted with diligence from day to day thereafter to completion, and he may extend the time so fixed from time to time, under the direction of the city council. The work provided for in section two of this act must, in all cases, be done under the direction and to the satisfaction of the superintendent of streets, and the materials used shall comply with the specifications and be to the satisfaction of said superintendent of streets, and all contracts made therefor must contain a provision to that effect, and also express notice that, in no case, except where it is otherwise provided in this act, will the city, or any officer thereof, be liable for any portion of the expense, nor for any delinquency of persons or property assessed. The city council may, by ordinance, prescribe general rules directing the superintendent of streets and the contractor as to the materials to be used, and the mode of executing the work, under all contracts thereafter made. The assessment and apportionment of the expenses of all such work or improvement shall be made by the superintendent of streets in the mode herein provided.

Sec. 7. Subdivision One—The expenses incurred for any work authorized by this act (which expense shall not include the cost of any work done in such portion of any street as is required by law to be kept in order or repair by any person or company having railroad tracks thereon, nor include work which shall have been declared in the resolution of intention to be assessed on a district benefited) shall be assessed upon the lots and lands fronting thereon, except as hereinafter

specifically provided; each lot or portion of a lot being separately assessed, in proportion to the frontage, at a rate per front foot sufficient to cover the total expense of the work.

Subdivision Two—The expense of all improvements, except such as are done by contractors under the provisions of section thirteen of this act, until the streets, avenues, street crossings, lanes, alleys, places, or courts are finally accepted, as provided in section twenty of this act, shall be assessed upon the lots and lands, as provided in this section, according to the nature and character of the work; and after such acceptance the expense of all the work thereafter done thereon shall be paid by said city out of the street department fund.

Subdivision Three—The expense of the work done on main street crossings shall be assessed at a uniform rate per front foot of the quarter blocks and irregular blocks adjoining and cornering upon the crossings, and separately upon the whole of each lot or portion of a lot having any frontage in the said blocks fronting on said main streets, half way to the next main street crossing, and all the way on said blocks to a boundary line of the city where no such crossing intervenes, but only according to its frontage in said quarter blocks and irregular blocks.

Subdivision Four—Where a main street terminates in another main street, the expenses of the work done on one half of the width of the street opposite the termination shall be assessed upon the lots in each of the two quarter blocks adjoining and cornering on the same, according to the frontage of such lots on said main streets, and the expense of the other half of the width of said street upon the lot or lots fronting on the latter half of the street at such termination.

Subdivision Five—Where any alley or subdivision street crosses a main street, the expense of all work done on said crossing shall be assessed on all lots or portions of lots half way on said alley or subdivision street to the next crossing or

intersection, or to the end of such alley or subdivision street, if it does not meet another.

Subdivision Six—The expense of work done on alley or subdivision street crossings shall be assessed upon the lots fronting upon such alley or subdivision streets on each side thereof, in all directions, half way to the next street, place or court, on either side, respectively, or to the end of such alley or subdivision street, if it does not meet another.

Subdivision Seven—Where a subdivision street, avenue, lane, alley, place, or court terminates in another street, avenue, lane, alley, place, or court, the expense of the work done on one half of the width of the subdivision street, avenue, lane, alley, place, or court opposite the termination, shall be assessed upon the lot or lots fronting on such subdivision street, or avenue, lane, alley, place, or court so terminating, according to its frontage thereon, half way on each side, respectively, to the next street, avenue, lane, alley, court, or place, or to the end of such street, avenue, lane, alley, place, or court, if it does not meet another, and the other one half of the width upon the lots fronting such termination.

Subdivision Eight—Where any work mentioned in this act (manholes, cesspools, culverts, crosswalks, piling, and capping excepted) is done on either or both sides of the center line of any street for one block or less, and further work opposite to the work of the same class already done is ordered to be done to complete the unimproved portion of said street, the assessment to cover the total expenses of said work so ordered shall be made upon the lots or portions of the lots only fronting the portions of the work so ordered. And when sewerage or re-sewerage is ordered to be done under the sidewalk on only one side of a street for any length thereof, the assessment for its expenses shall be made only upon the lots and lands fronting nearest upon that side, and for intervening intersections only upon the two quarter blocks adjoining and cornering upon that side.

Subdivision Nine—Section one of chapter three hundred and twenty-five of the laws of this state, entitled "An Act amendatory of and supplementary to 'An act to provide revenue for the support of the government of this State,' approved April twenty-ninth, eighteen hundred and fifty-seven," approved April nineteenth, eighteen hundred and fifty-nine, shall not be applicable to the provisions of this section; but the property herein mentioned shall be subject to the provisions of this act, and be assessed for work done under the provisions of this section.

Subdivision Ten—It shall be lawful for the owner or owners of lots or lands fronting upon any street, the width and grade of which have been established by the city council, to perform, at his or their own expense (after obtaining permission from the council so to do, but before said council has passed its resolution of intention to order grading inclusive of this), any grading upon said street, to its full width, or to the center line thereof, and to its grade as then established, and thereupon to procure, at his or their own expense, a certificate from the city engineer, setting forth the number of cubic yards of cutting and filling made by him or them in said grading, and the proportions performed by each owner, and that the same is done to the established width and grade of said street, or to the center line thereof, and thereafter to file said certificate with the superintendent of streets, which certificate the superintendent shall record in a book kept for that purpose in his office, properly indexed. Whenever thereafter the city council orders the grading of said street, or any portion thereof, on which any grading certified as aforesaid has been done, the bids and contracts must express the price by the cubic yard for cutting and filling in grading; and the said owner or owners, and his or their successors in interest, shall be entitled to credit, on the assessment upon his or their lots and lands fronting on said streets for the grading thereof, to the amount of the cubic yard of cutting and filling set forth

in his or their said certificate, at the prices named in the contract for said cutting and filling; or, if the grade meanwhile has been duly altered, only for so much of said certified work as would be required for grading to the altered grade; provided, however, that such owner or owners shall not be entitled to such credit as may be in excess of the assessments for grading upon the lots and lands owned by him or them, and proportionately assessed for the whole of said grading; and the superintendent of streets shall include in the assessment for the whole of said grading upon the same grade the number of cubic yards of cutting and filling set forth in any and all certificates so recorded in his office, or for the whole of said grading to the duly altered grade so much of said certified work as would be required for grading thereto, and shall enter corresponding credits, deducting the same as payments upon the amounts assessed against the lots and lands owned, respectively, by said certified owners and their successors in interest; provided, however, that he shall not so include any grading quantities or credit any sums in excess of the proportionate assessments for the whole of the grading which are made upon any lots and lands fronting upon said street and belonging to any such certified owners or their successors in interest whenever any owner or owners of any lots and lands fronting on any street shall have heretofore done, or shall hereafter do, any work (except grading) on such street, in front of any block, at his or their own expense, and the city council shall subsequently order any work to be done of the same class in front of the same block, said work so done at the expense of such owner or owners shall be excepted from the order ordering work to be done, as provided in subdivision eleven of this section of this act; provided, that the work so done at the expense of such owner or owners, shall be upon the official grade, and in condition satisfactory to the street superintendent at the time said order is passed.

Subdivision Eleven—The city council may include in one resolution of intention and order any of the different kinds of work mentioned in this act, and it may except therefrom any of said work already done upon the street to the official grade. The lots and portions of lots fronting upon said excepted work already done shall not be included in the frontage assessment for the class of work from which the exception is made; provided, that this shall not be construed so as to affect the special provisions as to grading contained in subdivision ten of this section.

Subdivision Twelve—Whenever the resolution of intention declares that the costs and expenses of the work and improvement are to be assessed upon a district, the city council shall direct the city engineer to make a diagram of the property affected or benefited by the proposed work or improvement, as described in the resolution of intention, and to be assessed to pay the expenses thereof. Such diagram shall show each separate lot, piece or parcel of land, the area in square feet of each of such lots, pieces, or parcels of land, and the relative location of the same to the work proposed to be done, all within the limits of the assessment district; and when said diagram shall have been approved by the city council, the clerk shall, at the time of such approval, certify the fact and date thereof. Immediately thereafter the said diagram shall be delivered to the superintendent of streets of said city, who shall after the contractor of any street work has fulfilled his contract to the satisfaction of said superintendent of streets or city council, on appeal, proceed to estimate upon the lands, lots or portions of lots within said assessment district, as shown by said diagram, the benefits arising from such work, and to be received by each such lot, portion of such lot, piece, or subdivision of land, and shall thereupon assess upon and against said lands in said assessment district the total amount of the costs and expenses of such proposed work, and in so doing shall assess said total sum upon the several



pieces, parcels, lots, or portions of lots, and subdivisions of land in said district benefited thereby, to wit: Upon each respectively, in proportion to the estimated benefits to be received by each of said several lots, portions of lots, or subdivisions of land. In other respects the assessment shall be as provided in the next section, and the provisions of subdivisions three, four, five, six, seven, and eight of this section shall not be applicable to the work or improvement provided for in this subdivision. [Amendment approved March 31, 1891; Stats. 1891, p. 196.]

Sec. 8. After the contractor of any street work has fulfilled his contract to the satisfaction of the street superintendent of said city, or city council on appeal, the street superintendent shall make an assessment to cover the sum due for the work performed and specified in said contract (including any incidental expenses), in conformity with the provisions of the preceding section according to the character of the work done; or, if any direction and decision be given by said council on appeal, then in conformity with such direction and decision, which assessment shall briefly refer to the contract, the work contracted for and performed, and shall show the amount to be paid therefor, together with any incidental expenses, the rate per front foot assessed, if the assessment be made per front foot, the amount of each assessment, the name of the owner of each lot, or portion of a lot (if known to the street superintendent); if unknown the word "unknown" shall be written opposite the number of the lot, and the amount assessed thereon, the number of each lot or portion or portions of a lot assessed, and shall have attached thereto a diagram exhibiting each street or street crossing, lane, alley, place, or court, on which any work has been done, and showing the relative location of each district, lot, or portion of lot to the work done, numbered to correspond with the numbers in the assessments, and showing the number of feet fronting, or number of lots assessed, for said work contracted for

and performed. [Amendment approved March 14, 1889; Stats. 1889, p. 157.]

Sec. 9. To said assessment shall be attached a warrant, which shall be signed by the superintendent of streets, and countersigned by the mayor of said city. The said warrant shall be substantially in the following form:

Form of the Warrant.

By virtue hereof, I (name of the superintendent of streets), of the city of ———, county of ——— (or city and county of ———), and State of California, by virtue of the authority vested in me as said superintendent of streets; do authorize and empower (name of contractor), (his or their) agents or assigns, to demand and receive the several assessments upon the assessment and diagram hereto attached, and this shall be (his or their) warrant for the same.

(Date.)

———— (name of Superintendent of Streets.)

Countersigned by (name of Mayor.)

Said warrant, assessment, and diagram, together with the certificate of the city engineer, shall be recorded in the office of said superintendent of streets. When so recorded, the several amounts assessed shall be a lien upon the lands, lots, or portions of lots assessed, respectively, for the period of two years from the date of said recording, unless sooner discharged; and from and after the date of said recording of any warrant, assessment, diagram and certificate, all persons mentioned in section eleven of this act shall be deemed to have notice of the contents of the record thereof. After said warrant, assessment, diagram, and certificate are recorded, the same shall be delivered to the contractor, or his agent, or assigns, on demand, but not until after the payment to the said superintendent of streets of the incidental expenses not previously paid by the contractor, or his assigns; and by virtue of said warrant said contractor, or his agent or assigns, shall be authorized to demand and receive the amount of the several assessments made to cover the sum due

for the work specified in such contracts and assessments. Whenever it shall appear by any final judgment of any court of this state that any suit brought to foreclose the lien of any sum of money assessed to cover the expense of said street work done under the provisions of this act has been defeated by reason of any defect, error, informality, omission, irregularity, or illegality in any assessment hereafter to be made and issued, or in the recording thereof, or in the return thereof made to or recorded by said superintendent of streets, any person interested therein may, at any time within three months after the entry of said final judgment, apply to said superintendent of streets who issued the same, or to any superintendent of streets in office at the time of said application, for another assessment to be issued in conformity to law; and said superintendent shall, within fifteen days after the date of said application, make and deliver to said applicant a new assessment, diagram, and warrant in accordance with law; and the acting mayor shall countersign the same as now provided by law, which assessment shall be a lien for the period of two years from the date of said assessment, and be enforced as provided in section seven of this act. [Amendment approved March 31, 1891; Stats. 1891, p. 196.]

Sec. 10. The contractor, or his assign, or some person in his or their behalf, shall call upon the persons assessed, or their agents, if they can conveniently be found, and demand payment of the amount assessed to each. If any payment be made the contractor, his assigns, or some person in his or their behalf, shall receipt the same upon the assessment in presence of the person making such payment, and shall also give a separate receipt if demanded. Whenever the person so assessed, or their agents, cannot conveniently be found, or whenever the name of the owner of the lot is stated as "unknown" on the assessment, then the said contractor, or his assign, or some person in his or their behalf, shall publicly demand payment on the premises assessed. The

warrant shall be returned to the superintendent of streets within thirty days after its date, with a return indorsed thereon, signed by the contractor, or his assigns, or some person in his or their behalf, verified upon oath, stating the nature and character of the demand, and whether any of the assessments remain unpaid, in whole or in part, and the amount thereof. Thereupon the superintendent of streets shall record the return so made, in the margin of the record of the warrant and assessment, and also the original contract referred to therein, if it has not already been recorded at full length in a book to be kept for that purpose in his office, and shall sign the record. The said superintendent of streets is authorized at any time to receive the amount due upon any assessment list and warrant issued by him, and give a good and sufficient discharge therefor; provided, that no such payment so made after suit has been commenced, without the consent of the plaintiff in the action, shall operate as a complete discharge of the lien until the costs in the action shall be refunded to the plaintiff; and he may release any assessment upon the books of his office, on the payment to him of the amount of the assessment against any lot with interest, or on the production to him of the receipt of the party or his assigns to whom the assessment and warrant were issued; and if any contractor shall fail to return his warrant within the time and in the form provided in this section, he shall thenceforth have no lien upon the property assessed; provided, however, that in case any warrant is lost, upon proof of such loss a duplicate can be issued, upon which a return may be made, with the same effect as if the original had been so returned. After the return of the assessment and warrant as aforesaid, all amounts remaining due thereon shall draw interest at the rate of ten per cent per annum until paid.

Sec. 11. The owners, whether named in the assessment or not, the contractor, or his assigns, and all other persons directly interested in any

work provided for in this act, or in the assessment, feeling aggrieved by any act or determination of the superintendent of streets in relation thereto, or who claim that the work has not been performed according to the contract in a good and substantial manner, or having or making any objection to the correctness or legality of the assessment or other act, determination, or proceedings of the superintendent of streets, shall, within thirty days after the date of the warrant, appeal to the city council, as provided in this section, by briefly stating their objections in writing, and filing the same with the clerk of said city council. Notice of the time and place of the hearing, briefly referring to the work contracted to be done, or other subject of appeal, and to the acts, determinations, or proceedings objected to or complained of, shall be published for five days. Upon such appeal, the said city council may remedy and correct any error or informality in the proceedings, and revise and correct any of the acts or determinations of the superintendent of streets relative to said work; may confirm, amend, set aside, alter, modify, or correct the assessment in such manner as to them shall seem just, and require the work to be completed according to the directions of the city council; and may instruct and direct the superintendent of streets to correct the warrant, assessment, or diagram in any particular, or to make and issue a new warrant, assessment, and diagram, to conform to the decisions of said city council in relation thereto, at their option. All the decisions and determinations of said city council, upon notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to appeal under the provisions of this section, as to all errors, informalities, and irregularities which said city council might have remedied and avoided; and no assessment shall be held invalid, except upon appeal to the city council, as provided in this section, for any error, informality, or other defect in any of the proceedings prior to the assessment, or in the assess-

ment itself, where notice of the intention of the city council to order the work to be done, for which the assessment is made, has been actually published in any designated newspaper of said city for the length of time prescribed by law, before the passage of the resolution ordering the work to be done.

Sec. 12. At any time after the period of thirty-five days from the day of the date of the warrants, as herein provided, or if an appeal is taken to the city council, as provided in section eleven of this act, at any time after five days from the decision of said council, or after the return of the warrant or assessment, after the same may have been corrected, altered, or modified, as provided in said section eleven (but not less than thirty-five days from the date of the warrant), the contractor or his assignee may sue, in his own name, the owner of the land, lots, or portions of lots, assessed on the day of the date of the recording of the warrant, assessment, and diagram, or any day thereafter during the continuance of the lien of said assessment, and recover the amount of any assessment remaining unpaid, with interest thereon at the rate of ten per cent per annum until paid. And in all cases of recovery under the provisions of this act, the plaintiff shall recover the sum of fifteen dollars, in addition to the taxable cost as attorney's fees, but not any percentage upon said recovery. And when suit has been brought, after a personal demand has been made and a refusal to pay such assessment so demanded, the plaintiff shall also be entitled to have and recover said sum of fifteen dollars as attorney's fees, in addition to all taxable costs, notwithstanding that the suit may be settled or a tender may be made before a recovery in said action, and he may have judgment therefor. Suit may be brought in the superior court within whose jurisdiction the city is in which said work has been done, and in case any of the assessments are made against lots, portions of lots, or lands the owners thereof cannot, with due diligence, be



found, the service in each of such actions may be had in such manner as is prescribed in the codes and laws of this state. The said warrant, assessment, certificate, and diagram, with the affidavit of demand and non-payment, shall be held prima facie evidence of the regularity and correctness of the assessment and of the prior proceedings and acts of the superintendent of streets and city council upon which said warrant, assessment, and diagram are based, and like evidence of the right of the plaintiff to recover in the action. The court in which said suit shall be commenced shall have power to adjudge and decree a lien against the premises assessed, and to order such premises to be sold on execution, as in other cases of the sale of real estate by the process of said courts; and on appeal, the appellate courts shall be vested with the same power to adjudge and decree a lien and to order such premises to be sold on execution or decree as is conferred on the court from which an appeal is taken. Such premises, if sold, may be redeemed as in other cases. In all suits now pending, or hereafter brought to recover street assessments, the proceedings therein shall be governed and regulated by the provisions of this act, and also, when not in conflict herewith, by the codes of this state. This act shall be liberally construed to effect the ends of justice. [Amendment approved, March 14, 1889; Stats. 1889, p. 168.]

Sec. 12½. The city council, instead of waiting until the completion of the improvement, may, in its discretion, and not otherwise, upon the completion of two blocks or more of any improvement, order the street superintendent to make an assessment for the proportionate amount of the contract completed, and thereupon proceedings and rights of collection of such proportionate amount shall be had as in sections eight, nine, ten, eleven, and twelve of the act of which this is amendatory is provided. [New section added March 14, 1889; Stats. 1889, p. 169, and approved March 14, 1889; Stats. 1889, p. 169.]

Sec. 13. When any portion of any street, ave-

nue, lane, alley, court, or place in said city improved, or any sidewalk constructed thereon shall be out of repair, or needing reconstruction, and in condition to endanger persons or property passing thereon, or in condition to interfere with the public convenience in the use thereof, it shall be the duty of said superintendent of streets to require, by notice in writing, to be delivered to them or their agents personally, or left on the premises the owners or occupants of lots or portions of lots fronting on said portion of said street, avenue, alley, lane, court, or place, or of said portion of said sidewalk so out of repair or needing reconstruction as aforesaid, to repair or reconstruct, or to do both, forthwith, said portion of said street, avenue, lane, alley, court, or place, to the center line of said street in front of the property of which he is the owner, or tenant, or occupant, and said superintendent of streets shall particularly specify in said notice what work is required to be done, and how the same is to be done, and what material shall be used in said repairs, or reconstructions, or both. If said repairs, or reconstructions, or both, be not commenced within three days after notice given as aforesaid, and diligently and without interruption prosecuted to completion, the said superintendent of streets may, under authority from said city council, make such repairs, reconstruction, or both, or enter into a contract with any suitable person, at the expense of the owner, tenant, or occupant, after the specification for the doing of said work shall have been conspicuously posted by him in his office for two days, inviting bids for the doing of said work, which bids shall be delivered to him at his office on or before the second day of said posting, and opened by him on the next day following the expiration of said two days of posting. and the contract by him be awarded to the lowest bidder, if such lowest bid, in the judgment of said street superintendent, shall be reasonable. All of said bids shall be preserved in his office and open at all times after the letting of the contract to the

inspection of all persons, and such owner, tenant, or occupant shall be liable to pay said contract price. Such work shall be commenced within twenty-four hours after the contract shall have been signed, and completed without delay to the satisfaction of said street superintendent. Upon the completion of said repairs, or reconstruction, or both, by said contractors as aforesaid, to the satisfaction of said superintendent of streets, said superintendent of streets shall make and deliver to said contractor a certificate to the effect that said repairs, or reconstruction, or both, have been properly made by said contractor to the grade, and that the charges for the same are reasonable and just, and that he, said superintendent, has accepted the same. [Amendment approved March 14, 1889; Stats. 1889, p. 157.]

Sec. 14. If the expenses of the work and material for such improvement, after the completion thereof, and the delivery to said contractor of said certificate, be not paid to the contractor so employed, or his agent or assignee, on demand, the said contractor, or his assignee, shall have the right to sue such owner, tenant, or occupant for the amount contracted to be paid; and said certificate of the superintendent of streets shall be prima facie evidence of the amount claimed for said work and materials, and of the right of the contractor to recover for the same in such action. Said certificate shall be recorded by the said superintendent of streets in a book kept by him in his office for that purpose, properly indexed, and the sum contracted to be paid shall be a lien, the same as provided in section nine of this act, and may be enforced in the same manner.

Sec. 15. In addition, and as cumulative to the remedies above given, the city council shall have power, by resolution or ordinance, to prescribe the penalties that shall be incurred by any owner or person liable, or neglecting, or refusing to make repairs when required, as provided in section (13) thirteen of this act, which fines and penalties shall be recovered for the use of the city by prosecu

tion in the name of the people of the state of California, in the court having jurisdiction thereof, and may be applied, if deemed expedient by the said council, in the payment of the expenses of any such repairs not otherwise provided for.

Sec. 16. The person owning the fee, or the person in whom, on the day the action is commenced, appears the legal title to the lots and lands, by deeds duly recorded in the county recorder's office of each county, or the person in possession of lands, lots, or portions of lots or buildings under claim, or exercising acts of ownership over the same for himself, or as the executor, administrator, or guardian of the owner, shall be regarded, treated, and deemed to be the "owner" (for the purpose of this law), according to the intent and meaning of that word as used in this act. And in case of property leased, the possession of the tenant or lessee holding and occupying under such persons shall be deemed to be the possession of such owner.

Sec. 17. Any tenant or lessee of the lands or lots liable may pay the amount assessed against the property of which he is the tenant or lessee under the provisions of this act, or he may pay the price agreed on to be paid under the provision of section thirteen of this act, either before or after suit brought, together with costs, to the contractor, or his assigns, or he may redeem the property, if sold on execution or decree for the benefit of the owner, within the time prescribed by law, and deduct the amount so paid from the rents due and to become due from him, and for any sums so paid beyond the rents due from him, he shall have a lien upon and may retain possession of the said land and lots until the amount so paid and advanced be satisfied, with legal interest, from accruing rents, or by payment by the owner.

Sec. 18. The records kept by the superintendent of streets of said city, in conformity with the provisions of this act, and signed by him, shall have the same force and effect as other public records,

and copies therefrom, duly certified, may be used in evidence with the same effect as the originals. The said records shall, during all office hours, be open to the inspection of any citizen wishing to examine them, free of charge.

Sec. 19. Notices in writing which are required to be given by the superintendent of streets, under the provisions of this act, may be served by any person, with the permission of the superintendent of streets, and the fact of such service shall be verified by the oath of the person making it, taken before the superintendent of streets (who, for that purpose, and for all other purposes, and in all cases where a verification is required under the provisions of this act, is hereby authorized to administer oaths), or other person authorized to administer oaths, or such notices may be delivered to the superintendent of streets himself, who must also verify the service thereof, and who shall keep a record of the fact of giving such notices, when delivered by himself personally, and also of the notices and proof of service when delivered by any other person. [Amendment approved March 14, 1889; Stats. 1889, p. 157.]

Sec. 20. Whenever any street, or portion of a street, has been or shall hereafter be fully constructed to the satisfaction of the superintendent of streets and of the city council, and is in good condition throughout, and a sewer, gas pipes, and water pipes are laid therein, under such regulations as the city council shall adopt, the same shall be accepted by the city council, by ordinance, and thereafter shall be kept in repair and improved by the said municipality; the expense thereof, together with the assessment for street work done in front of city property, to be paid out of a fund to be provided by said council for that purpose; provided, that the city council shall not accept of any portion of the street less than the entire width of the roadway (including the curbing), and one block in length, or one entire crossing; and, provided further, that the city council may partially or conditionally accept any

street, or portion of a street, without a sewer, or gas pipes, or water pipes therein, if the ordinance of acceptance expressly states that the council deems such sewer, or gas pipes, or water pipes, to be then unnecessary, but the lots of land previously, or at any time, assessable for the cost of constructing a sewer, shall remain and be assessable for such cost, and for the cost of repairs and restoration of the street damaged in the said construction, whenever said council shall deem a sewer to be necessary, and shall order it to be constructed, the same as if no partial or conditional acceptance had ever been made. The superintendent of streets shall keep in his office a register of all streets accepted by the city council under this section, which register shall be indexed for easy reference thereto.

Sec. 21. The superintendent of streets shall keep a public office in some convenient place within the municipality, and such records as may be required by the provisions of this act. He shall superintend and direct the cleaning of all sewers, and the expense of the same shall be paid out of the street or sewer fund of said city.

Sec. 22. It shall be the duty of the superintendent of streets to see that the laws, ordinances, orders, and regulations relating to the public streets and highways be fully carried into execution, and that the penalties thereof are rigidly enforced. He shall keep himself informed of the condition of all the public streets and highways, and also of all public buildings, parks, lots, and grounds of said city, as may be prescribed by the city council. He shall, before entering upon the duties of his office, give bonds to the municipality, with such sureties and for such sums as may be required by the city council; and should he fail to see the laws, ordinances, orders, and regulations relative to the public streets or highways carried into execution, after notice from any citizen of a violation thereof, he and his sureties shall be liable upon his official bond to any person injured in his person or property in consequence of said official neglect.



Sec. 23. If, in consequence of any graded street or public highway improved under the provisions of this act, being out of repair and in condition to endanger persons or property passing thereon, any person, while carefully using said street or public highway, and exercising ordinary care to avoid the danger, suffer damage to his person or property, through any such defect therein, no recourse for damages thus suffered shall be had against such city; but if such defect in the street or public highway shall have existed for the period of twenty-four hours or more after notice thereof to the said superintendent of streets, then the person or persons on whom the law may have imposed the obligations to repair such defect in the street or public highway, and also the officer or officers through whose official negligence such defect remains unrepaired, shall be jointly and severally liable to the party injured for the damage sustained; provided, that said superintendent has the authority to make said repairs, under the direction of the city council, at the expense of the city.

Sec. 24. The city council of such city shall have full power and authority to construct sewers, gutters, and manholes, and provide for the cleaning of the same, and culverts or cesspools, or crosswalks or sidewalks, or any portion of any sidewalk, upon or in any street, avenue, lane, alley, court, or place in such city; and also for drainage purposes, over or through any right of way obtained or granted for such purposes, with necessary and proper outlet or outlets to the same, of such materials, in such a manner, and upon such terms as it may be deemed proper. None of the work or improvements described in this section shall be stayed or prevented by any written or any other remonstrance or objection, unless such council deems proper. [Amendment approved March 11, 1893; Stats. 1893, p. 172.]

Sec. 25. The City Council may, in its discretion, repair and water streets that shall have been graded, curbed, and planked, paved, or macada-

mized, and may build, repair, and clean sewers, and shall provide a Street Contingent Fund at the same time and in the same manner as other funds are provided, out of which to pay the costs and expenses of making said repairs, and watering said streets, and building, repairing, and cleaning said sewers; but whenever any unaccepted street or part of a street requires regrading, recurbing, repiling, repaving, replanking, regravelling, or remacadamizing, or requires new culverts, or new crosswalks, or new sidewalks, or new sewers, the work shall be advertised and let out by contract, and the costs and expenses thereof shall be assessed upon the property affected or benefited thereby, the same as in the first instance.

Sec. 26. The city council may, in its discretion, order, by resolution, that the whole or any part of the cost and expenses of any of the work mentioned in this act to be paid out of the treasury of the municipality from such fund as the council may designate. Whenever a part of such cost and expenses is so ordered to be paid, the superintendent of streets, in making up the assessment heretofore provided for such cost and expenses, shall first deduct from the whole cost and expenses such part thereof as has been so ordered to be paid out of the municipal treasury, and shall assess the remainder of said cost and expenses proportionately upon the lots, parts of lots, and lands fronting on the streets where said work was done, or liable to be assessed for such work, and in the manner heretofore provided. [Amendment approved March 31, 1891; Stats. 1891, p. 196.]

## Part II.

Sec. 27. Whenever the city council deem it necessary to construct a sewer, then the said council may, in its discretion, determine to construct said sewer, and assess the cost and expenses thereof upon the property to be affected or benefited thereby, in such manner and within

such assessment district as it shall prescribe, and the lien therefor upon said property shall be the same as is provided in section nine of this act, or said council may determine to construct said sewer and pay therefor out of the street contingent fund.

Sec. 28. If, at any time, the city council shall deem it necessary to incur any indebtedness for the construction of sewers, in excess of the money in the street contingent fund applicable to the construction of such sewers, they shall give notice of a special election by the qualified electors of the city, to be held to determine whether such indebtedness shall be incurred. Such notice shall specify the amount of indebtedness proposed to be incurred, the route and general character of the sewer or sewers to be construed, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund as hereinafter provided. Such notice shall be published for at least three weeks in some newspaper published in such city, and no other question or matter shall be submitted to the electors at such election. If, upon a canvass of the votes cast at such election, it appears that not less than two thirds of all the qualified electors voting at such election shall have voted in favor of incurring such indebtedness, it shall be the duty of the City Council to pass an ordinance providing for the mode of creating such indebtedness, and of paying the same; and in such ordinance provision shall be made for the levy and collection of an annual tax upon all the real and personal property subject to taxation, within such city, sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within a period of not more than twenty years from the time of contracting the same. It shall be the duty of the City Council in each year thereafter, at the time when other taxes are levied, to levy a tax sufficient for such purpose, in addition to the taxes authorized to be levied for city pur-

poses. Such tax, when collected, shall be kept in the treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of such indebtedness.

Sec. 29. If bonds are issued under the provisions of the last section, said bonds shall be in sums of not less than one hundred dollars nor more than one thousand dollars, shall be signed by the Mayor and Treasurer of the city, and the seal of the city shall be affixed thereto. Coupons for the interest shall be attached to each bond, signed by the mayor and treasurer. Said bonds shall bear interest, to be fixed by the city council, at the rate of not to exceed five per cent per annum.

Sec. 30. Before the sale of said bonds, the council shall, at a regular meeting, by resolution, declare its intention to sell a specified amount of said bonds, and the day and hour of such sale, and shall cause such resolution to be entered in the minutes, and shall cause notice of such sale to be published for fifteen days in at least one newspaper published in the city in which the bonds are issued, and one published in the city and county of San Francisco, and in any other newspaper in the state, at their discretion. The notice shall state that sealed proposals will be received by the council for the purchase of the bonds on the day and hour named in the resolution. The council, at the time appointed, shall open the proposals and award the purchase of the bonds to the highest bidder, but may reject all bids.

Sec. 31. The council may sell said bonds, at not less than par value, without the notice provided for in the preceding section.

Sec. 32. The proceeds of the sale of the bonds shall be deposited in the city treasury, to the account of the sewer fund, but no payment therefrom shall be made, except to pay for the construction of the sewer or sewers, for the construction of which the bonds were issued, and upon the certificate of the superintendent of streets and the city engineer

that the work has been done according to the contract; provided, that after the completion of the sewers, for the construction of which said bonds were issued, if there be any money of said fund left in the treasury, the same may be transferred to the general fund, for general purposes. [Amendment approved March 15, 1887; Stats. 1887, p. 148.]

Sec. 33. Whenever said council shall determine to construct any sewer, and pay therefor out of the street contingent fund, or by the issuance of bonds, as above provided, then said council shall cause to be prepared plans and specifications of said work in sections, and shall advertise for twenty days in at least one newspaper published in the city in which the sewer is to be constructed, and one in the city and county of San Francisco, for sealed proposals for constructing said sewer. The work may be let in sections, and must be awarded to the lowest responsible bidder, the council having the right to reject any and all bids. The work shall be done and the materials furnished under the supervision and to the satisfaction of the superintendent of streets and the city engineer.

Sec. 34. First—The city engineer, or where there is no city engineer, the county, or city and county surveyor, shall be the proper officer to do the surveying and other engineering work necessary to be done under this act, and to survey and measure the work to be done under contracts for grading and macadamizing streets, and to estimate the costs and expenses thereof; and every certificate signed by him in his official character shall be prima facie evidence in all courts in this state of the truth of its contents. He shall also keep a record of all surveys made under the provisions of this act, as in other cases. In all those cities where there is no city engineer, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of city engineer, and all the provisions hereof applicable to

the city engineer shall apply to such person so appointed. Said city council is hereby empowered to fix his compensation for such services.

Second—The words “work,” “improve,” “improved” and “improvement” as used in this act, shall include all work mentioned in this act, and also the construction, reconstruction and repairs of all or any portion of said work.

Third—The term “incidental expenses,” as used in this act, shall include the compensation of the city engineer for work done by him; also the cost of printing and advertising as provided in this act, and not otherwise; also, the compensation of the person appointed by the superintendent of streets to take charge of and superintend any of the work mentioned in section thirty-five of this act. All demands for incidental expenses mentioned in this subdivision shall be presented to the street superintendent by itemized bill, duly verified by oath of the demandant.

Fourth--The notices, resolutions, orders or other matter required to be published by the provisions of this act, and of the act of which this is amendatory, shall be published in a daily newspaper, in cities where such there is, and where there is no daily newspaper, in a semi-weekly or weekly newspaper, to be designated by the council of such city, as often as the same is issued, and no other statute shall govern or be applicable to the publications herein provided for; provided, however, that only in case there is no daily, semi-weekly or weekly newspaper printed or circulated in any such city, then such notices, resolutions, orders or other matter as are herein required to be published in a newspaper, shall be posted and kept posted for the same length of time as required herein for the publication of the same in a daily, semi-weekly or weekly newspaper, in three of the most public places in such city. Proof of the publication or posting of any notice provided for herein shall be made by affidavit of the owner, publisher or clerk of the newspaper, or of the poster of the notice.



No publication or notice, other than that provided for in this act, shall be necessary to give validity to any of the proceedings provided for therein.

Fifth—The word “municipality” and the word “city,” as used in this act, shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes.

Sixth—The words “paved” or “repaved,” as used in this act, shall be held to mean and include pavement of stone, whether paving blocks or macadamizing, or of bituminous rock or asphalt, or of iron, wood or other material, whether patented or not, which the city council shall by ordinance adopt.

Seventh—The word “streets,” as used in this act, shall be deemed to, and is hereby declared to, include avenues, highways, lanes, alleys, crossings, or intersections, courts and places, and the term “main street” means such actually opened street or streets as bound a block; the word “blocks,” whether regular or irregular, shall mean such blocks as are bounded by main streets, or partially by a boundary line of the city.

Eighth—The terms “street superintendent” and “superintendent of streets,” as used in this act, shall be understood and so construed as to include, and are hereby declared to include, any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof in any city. In all those cities where there is no street superintendent or superintendent of streets, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent or superintendent of streets; and all provisions hereof applicable to the street superintendent or superintendent of streets shall apply to such person so appointed.

Ninth—The term “city council” is hereby de-

clared to include any body or board which, under the law, is the legislative department of the government of any city.

Tenth—In municipalities in which there is no mayor, then the duties imposed upon said officer by the provisions of this act shall be performed by the president of the board of trustees, or other chief executive officer of the municipality.

Eleventh—The term "clerk" and "city clerk" as used in this act, is hereby declared to include any person or officer who shall be clerk of the said city council.

Twelfth—The term "quarter block," as used in this act as to irregular blocks, shall be deemed to include all lots or portions of lots having any frontage on either intersecting street half way from such intersection to the next main street, or, when no main street intervenes, all the way to a boundary line of the city.

Thirteenth—The term "one year," as used in this act, shall be deemed to include the time beginning with January first and ending with the thirty-first day of December of the same year.

Fourteenth—References in certain sections, by number, to certain other sections of "this act" refer to the number of the sections of the original act, as heretofore amended, unless it appears from the context that the reference is to the section of this amendatory act, when it shall be construed according to the context. [Amendment approved March 31, 1891; Stats. 1891, p. 96.]

Sec. 35. The superintendent of streets shall, when in his judgment it is necessary, appoint a suitable person to take charge of and superintend the construction and improvement of each and every sewer constructed or improved under the provisions of this act, and of piling and capping, sidewalking, or of the paving of whatever character heretofore mentioned, in whole or in part, of one block or more, whose duty it shall be to see that the contract made for the doing of said work is strictly fulfilled in every respect, and in case of any departure therefrom to report the same to the superintendent of streets. Such per-

son shall be allowed for his time actually employed in the discharge of his duties such compensation as shall be just, but not to exceed four dollars per day. The sum to which the party so employed shall be entitled shall be deemed to be incidental expenses, within the meaning of those words as defined by this act. [Amendment approved March 31, 1891; Stats. 1891, p. 196.]

Sec. 36. The act entitled "An act to provide for the improvement of streets, lanes, alleys, courts, places, and sidewalks, and the construction of sewers within municipalities," approved March sixth, eighteen hundred and eighty-three, is hereby repealed; provided, that any work or proceedings commenced thereunder prior to the passage of this act shall in nowise be affected hereby, but shall in all respects be finished and completed under said act of March sixth, eighteen hundred and eighty-three, and said repeal shall in nowise affect said work or proceedings.

Sec. 37. That said act shall take effect and be in force immediately upon its passage, and all acts and parts of acts in conflict with this act are hereby repealed; and provided, however, that any work or proceeding of the city council commenced under the act of which this is amendatory shall in nowise be affected thereby, but shall in all respects be finished and completed thereunder. [Amendment Approved March 11, 1893; Stats. 1893, p. 172.]

Sec. 38. The city council is hereby empowered to change or modify the grade of any public street, lane, alley, place, or court, and to regrade or repave the same, so as to conform to such modified grade, in the manner as hereinafter provided. Before any change of grade is ordered the city council shall pass an ordinance or resolution of intention to make such change or modification of grade, and it shall have power at the same time and in the same ordinance or resolution to provide for the actual cost of performing the work of regrading, repaving, sewerage, sidewalk-ing, or curbing of said street or portion of street,

with the same or other material with which it was formerly graded, paved, sewered, sidewalked, or curbed; and that the cost of the same shall also be assessed upon the same district which is declared to be benefited by such changed or modified grade. One or more streets or blocks of streets may be embraced in the same ordinance or resolution. Such ordinance or resolution shall be published in the newspaper in which the official notices of the city council are usually printed and published; and such newspaper is to be designated in such ordinance or resolution. Such publication shall be made in every regular issue of such paper for not less than ten days, and shall describe the proposed change or modification of grade or regrading, and shall designate and establish the district to be benefited by such change or modification of grade or regrading, and to be assessed for the cost of the same. Within five days after the first publication of the ordinance or resolution of intention, the superintendent of streets shall cause to be conspicuously posted within the district designated in the ordinance or resolution, notice of the passage of said resolution. Said notices shall be the same in all requirements of contents and posting as the "Notices of street work" provided for in section three of the original act to which this is amendatory. If no objection to said proposed change or changes, or modifications of grade, shall be filed with the clerk of the council within thirty days from the first publication of the ordinance or resolution of intention hereinbefore mentioned, the city council shall have power to declare such grades to be changed and established in conformity to said ordinance or resolution; provided, that no change of an established grade shall be ordered except on petition of the owners of a majority of the property affected by the proposed change of grade. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Sec. 39. Within thirty days after the first publication of said notice, any person owning prop-

erty fronting upon said portions of the street or streets where such change of grade is made, may file a petition with the clerk of the city council showing the fact of such ownership, the description and situation of the property claimed to be damaged, its market value, and the estimated amount of damages over and above all benefits which the property would sustain by the proposed change if completed. Such petition shall be verified by the oath of the petitioners or their agents. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 40. Whenever such petition or petitions have been filed, the mayor, surveyor, and superintendent of streets of the city, or city and county, acting as a board of commissioners, shall assess the benefits, damages, and costs of the proposed change of grade upon each separate lot of land situated within such assessment district, as said lot appears of record upon the last city, or city and county assessment roll. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 41. The commissioners shall be sworn to make the assessments of benefits and damages to the best of their judgment and ability, without fear or favor. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 42. The commissioners shall have power to subpoena witnesses to appear before them to be examined under oath, which any one of said commissioners is authorized to administer. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 43. The commissioners having determined the damage which would be sustained by each petitioner, in excess of all benefits, shall proceed to assess the total amount thereof, together with the costs, charges, and expenses of the proceedings, upon the several lots of land benefited within the district of assessment, so that each of the lots shall be assessed in accordance with its benefits caused by such work or improvement; and during the progress of their work shall make a report to such city council as often as it may

be required. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 44. The commissioners shall make their report, in writing, and shall subscribe to the same and file with the city council. In their said report they shall describe separately each piece of property which will sustain damage, stating the amount of damages each will sustain over and above all benefits. They shall also give a brief description of each lot benefited within said assessment district, the name of the owner, if known, and the amount of benefits in excess of damages assessed against the same. In case the three commissioners do not agree, the award agreed upon by any two of them shall be sufficient. In designating the lots to be assessed, reference may be had to a diagram of the property in the district affected; such diagram to be attached to and made a part of the report of the commissioners. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 45. If in any case the commissioners find that conflicting claims of title exist, or shall be in ignorance or doubt of the ownership of any lot or land, or any improvement thereon, or any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner or owners of any land or improvements, or particulars of their interest, shall not affect the validity of the assessment. On the filing of said report, the clerk of said city council shall give notice of such filing by the publication of at least ten days in one or more daily newspapers published and circulated in said city; or if there be no daily newspaper, by three successive issues in a weekly or semi-weekly newspaper so published and circulated; and said notice shall require all persons interested to show cause, if any, why such report should not be confirmed, before the city council, on a day to be fixed by the city council and stated in said notice, which day shall not be less than twenty days from the first publication thereof. [Amendment approved March 9, 1893; Stats 1893, p. 89.]



Section 46. All objections shall be in writing and filed with the clerk of the city council, who shall, at the next meeting after the date fixed in the notice to show cause, lay the said objections, if any, before the council, which shall fix a time for hearing the same; of which time the clerk shall notify the objectors in the same manner as are notified objectors to the original resolution of intention. At the time set, or at such other time as the hearing may be adjourned, the city council shall hear such objections and pass upon the same, and at such time shall proceed to pass upon such report, and may confirm, correct, or modify the same, or may order the commissioners to make a new assessment, report, and plat, which shall be filed, notice given and had, as in the case of an original report. In case the ordinance or resolution of intention also provides for the assessing upon the district the cost of regrading or repaving such street or streets to such changed or modified grade, after the report of the commissioners as to the damages caused by such change of grade has been passed upon by the city council, it shall then advertise for bids to perform the work of regrading, repaving, sewerage, sidewalking, or curbing such street or streets with the same or other material with which the same had been formerly graded, paved, sewerage, sidewalked, or curbed; first causing a notice, with specifications, to be posted conspicuously for five days on or near the council chamber door, inviting sealed proposals for bids for doing such work, and shall also cause notices of said work, inviting said proposals and referring to the specifications posted or on file, to be published two days in a daily, semi-weekly, or weekly newspaper published and circulated in said city, and designated by the city council for that purpose, and in case there is no newspaper published in the city, then it shall be posted as provided in section three of the original act to which this is amendatory. All proposals or bids offered shall be accompanied by a check, payable to the order of the mayor of the

city, and certified by a responsible bank for that amount, which shall not be less than ten per cent of the aggregate of the proposals; or by a bond for said amount, signed by the bidder and two sureties, who shall justify under oath in double said amount over and above all statutory exemptions. Said proposals or bids shall be delivered to the clerk of the said city council, and said council shall in open session, examine and publicly declare the same; provided, however, that no proposal or bid shall be considered unless accompanied by a check or a bond satisfactory to the council. The city council may reject any and all bids, and may award the contract to the lowest responsible bidder, which award shall be approved by the mayor or the three-fourths vote of the city council. If not approved by the mayor or the three-fourths vote of the city council, the city council may readvertise for proposals or bids for the performance of the work, as in the first instance, and thereafter proceed in the manner in this section provided. All checks accompanying bids shall be held by the clerk until the bearer has entered into a contract, as herein provided; and in case he refuses so to do, then the amount of his certified check shall be declared forfeited to the city, and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted, and the amount thereon collected paid into such fund. Notice of the awards of the contracts shall be published and posted in the same manner as hereinbefore provided for the posting of proposals for said work. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 47. After such contract has been awarded and entered into, the clerk of the city council shall certify to the city council that fact, together with the total amount of the cost of the same, whereupon the city council shall cause to be forwarded to the commissioners a copy of such certificate; whereupon such commissioners shall proceed to assess the cost of doing such work upon all the lots and land lying within the district to

be assessed, distributing the same so that each lot will be assessed for its proportion of the same, according to the benefits it receives from the work, and in the same manner in which the damages caused by the change of grade were assessed upon the same. Such commissioners, in making such assessment, shall show the total amount for which each lot or tract is assessed, in excess of all benefits, for the total cost of changing and modifying the grade of the street, as well as the regrading, repaving, sewerage, sidewalking, and curbing of the same, and costs or damages connected therewith. The provisions of the act to which this is amendatory in regard to the mode or manner of the assessment of the cost of such work shall not apply to the work herein contemplated; neither shall the provisions of the same in regard to the issuing of bonds to represent the cost of the same, nor the provisions in regard to the right of protest against the work. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 48. The clerk of said city council shall forward to the street superintendent of the city a certified copy of the report, assessment, and plat, as finally confirmed and adopted by the city council. Such certified copy shall thereupon be the assessment roll, the cost of which shall be provided for by the commissioners, as a portion of the cost of the proceedings therein. Immediately upon receipt thereof by the street superintendent, the assessment therein contained shall become due and payable, and shall be a lien upon all the property contained or described therein. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 49. The superintendent of streets shall thereupon give notice, by publication for ten days in one or more daily newspapers published and circulated in said city, or city and county, or two successive insertions in a weekly or semi-weekly newspaper so published and circulated, that he has received said assessment roll, and that all sums levied and assessed in said assess-

ment roll are due and payable immediately, and that the payment of said sums is to be made to him within thirty days from the date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per cent upon the amount of such de-advertising each delinquent assessment, will be linquent assessments together with the cost of added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "paid" and the date of payment opposite the respective assessment so paid, and the name of the persons by or for whom said assessment is paid, and shall give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment roll, and shall add five per cent to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of such delinquency, proceed to advertise the various sums delinquent, and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of such sale herein provided for, no assessment shall be received, unless at the same time the five per cent added to as aforesaid, together with the costs of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments, with a notice of the time and place of sale of the property affected thereby, shall be published daily for five days, in one or more daily newspapers published and circulated in such city, or by at least two insertions in a weekly newspaper so published and circulated before the day of sale

for such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption for one year, and in the same manner as in sales for delinquent state and county taxes; and the superintendent of streets shall, if there is no redemption, make and deliver to the purchaser at such sale a deed conveying the property sold, and may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law in reference to the sale and redemption of property for delinquent state and county taxes, in force at any given time, shall also then, as far as the same are not in conflict with the provisions of this act, be applicable to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and execution of deeds. The deed of the street superintendent, made after such sale, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings hereunder, and of title in the grantee. The superintendent of streets shall from time to time pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place the same in a separate fund, designating each fund by the name of the street, square, lane, alley, court, or place for the change of grade for which the assessment was made. Payments shall be made from said fund to the parties entitled thereto, upon warrants signed by the commissioners or a majority of them. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 50. When sufficient money is in the hands of the city treasurer, in the fund voted for the proposed work or improvement, to pay the total cost for damages, as well as for the cost of doing the work, and all other expenses connected therewith, it shall be the duty of the commissioners to notify the owner, possessor, or occupant of

the premises damaged, and to whom damages have been awarded, that a warrant has been drawn for the payment of the same, which can be received at the office of such commissioners. Such notification may be made by depositing a notice, postage paid, in the postoffice, addressed to his last known place of residence. If, after the expiration of three days after the service or deposit of the notice in the postoffice, he shall not have applied for such warrant, the same shall be drawn and deposited with the city treasurer, to be delivered to him upon demand. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Sec. 51. If the owner of any premises damaged neglects or refuses, for ten days after the warrant has been placed in the hands of the city treasurer, subject to his demand, to accept the same, the city council may cause proceedings to be commenced, in the name of the city, to condemn said premises, as provided by law under the right of eminent domain. The ordinance or resolution of intention shall be conclusive evidence of the necessity of the same. Such proceedings shall have precedence, so far as the business of the court will permit, and any judgment for damages therein rendered shall be payable out of the special fund in the treasury for that purpose. At any time after the trial and judgment entered, or pending appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from said fund to answer the judgment, and thereupon may authorize or order the municipality to proceed with the proposed work or improvements. In case of a deficiency in said fund to pay the whole assessed judgment and damages, the city council may, in its discretion, order the balance thereof to be paid out of the general fund of the treasury, or to be distributed by the commissioners over the property assessed by a supplementary assessment, but in the last named case, in order to avoid delay, the city council may advance such balance out of any available fund in the treasury, and reimburse the same from the



collection of assessments. The treasurer shall pay such warrants in the order of their presentation; provided, that warrants for damages and for costs of performing the work shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money remains in the fund to pay all warrants of the first class before paying any of the second. The provisions of section one thousand two hundred and fifty-one of the Code of Civil Procedure, requiring the payment of damages within thirty days after the entry of judgment, shall not apply to damages rendered in proceedings under this act. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Sec. 52. All other provisions contained in the act to which this is amendatory, and which provisions are not in conflict herewith, shall apply to all matters herein contained. All proceedings in any work or improvement, such as is provided for in this act, already commenced and now in progress under another act now in force, or by virtue of an ordinance or resolution of intention heretofore passed, may, from any stage of such proceedings already commenced and now in progress, be continued under this act by resolution of the city council. The said work or improvement may then be conducted under the provisions of this act, with full force and effect in all respects from the stage of such proceedings at and from which such resolution or ordinance shall declare the intention to have such work done or improvement cease under such other acts or ordinances and continued under this act; and from such election so made all proceedings theretofore had are hereby ratified, confirmed, and made valid, and it shall be unnecessary to renew or conduct over again any proceedings prior to the passage of this act. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

Section 53. The provisions of this act shall be liberally construed to permit the objects thereof. [Amendment approved March 9, 1893; Stats. 1893, p. 89.]

An act to provide for laying out, opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities or cities and cities and counties of forty thousand inhabitants or over, and to condemn and acquire any and all land and property necessary or convenient for that purpose.

[Approved March 23, 1893; Stats. 1893, p. 220.]

Section 1. Be it enacted: Whenever the public interest or convenience may require, the city council of any municipality or cities and cities and counties, containing over forty thousand inhabitants, shall have full power to order, and upon the petition of the owners of a majority of the frontage to be taken for said purpose shall order, the opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in part, of any street, square, lane, alley, court, or place within the bounds of such city, and shall condemn and acquire any and all lands necessary or convenient for that purpose.

Sec. 2. Before ordering any work to be done or improvement made, which is authorized by section one of this act, the city council shall then pass a resolution declaring the intention to do said work, describing the work or improvement, and the land deemed necessary to be taken therefor, and specifying the exterior boundaries of the district of land to be affected or benefited by said work or improvement, and be assessed to pay the damages, cost, and expense thereof.

Sec. 3. The street superintendent shall then cause to be conspicuously posted along the line of said contemplated work or improvement, and not more than three hundred feet in distance apart, but not less than three in all, notices of the passage of said resolution. Said notice shall be headed, "Notice of Public Work," in letters not less than one inch in length, shall be in legible characters, state the fact of the passage of the resolution, its date, and, briefly, the work of improvement proposed, and refer to the resolution for further particulars. He shall also cause a no-

tice similar in substance to be published for a period of ten days in one or more daily newspapers published and circulated in said city, and designated by said city council; or if there is no daily newspaper so published and circulated in said city, then by four successive insertions in a weekly or semi-weekly newspaper so published, circulated, and designated.

Sec. 4. Any person through whose lands said proposed street extension runs, or who will be damaged or affected by said proposed work, may, within ten days after the first publication of said notice, file with the clerk of the city council his written objections thereto, stating in what manner and to what extent he will be damaged, which objection shall be delivered to the clerk of the city council, who shall indorse thereon the date of its reception by him, and at the next meeting of the city council, after the expiration of said ten days, lay said objections before said city council, which shall fix a time for hearing said objections, not less than one week thereafter. The city clerk shall thereupon notify the persons making such objections by depositing a notice thereof in the postoffice of said city, postage prepaid, addressed to such objector.

Sec. 5. At the time specified, or to which the hearing may be adjourned, the city council shall hear the objections filed, and if the owners of a majority of the frontage of all lands to be assessed for benefits, as said owners appear on the last preceding annual assessment roll for state and county taxes, object, in writing, to said proposed opening, extending, and widening, straightening, diverging, curving, contracting, or closing up of said street, said city council shall sustain said objections, and all proceedings therefor shall be stopped for the period of twelve months. Proceedings may be again commenced by a new resolution of intention. If the owners of a majority of the frontage of all streets within the assessment district do not object, in writing, thereto, within the time specified in this act, the city council shall be deemed to have acquired jurisdiction to order any of the work to be done or improvements to be made which is authorized by section one of this act.

Sec. 6. Having acquired jurisdiction, as provided in the preceding section, the city council shall order said work to be done, and, unless the proposed work is for closing up, and it appears that no assessment is necessary, shall appoint three disinterested persons, who shall constitute a board of commissioners in that regard, who shall have full supervision of the proposed work or improvement until the completion thereof in compliance with this statute. For their services they shall each receive, as compensation, not to exceed five dollars for every day of actual service; provided, that said compensation shall not be paid for a longer term than six months for each district, unless extended by the council. Such extension shall not exceed two months at one time, nor shall the term of office of said commissioners, for any district, continue for longer than one year. Such compensation shall be added to and be chargeable as a part of the expenses of the work or improvement. Each of said commissioners shall file with the clerk of the city council an affidavit and a bond to the state of California, in the sum of five thousand dollars, to faithfully perform the duties of his office. The city council may at any time remove any or all of said commissioners for cause upon reasonable notice and hearing, and may fill any vacancies occurring among them for any cause. At the end of the terms of said commissioners, they shall hand over all unfinished business to the city council, who shall complete the same. In all municipalities where there is a board of public works, such board shall constitute the board of commissioners in this section provided for, and shall perform the duties of such commissioners, and their salaries as members of the board of public works shall be in full compensation for such services. It shall be the official duty of the city attorney to render said commissioners all necessary legal services; provided, that the city surveyor shall, for any work or services which he may perform by the direction of the common council or other legislative department of the city government, receive, in addition to his salary allowed by law, all sums which he may lay out, pay out, or expend in the prosecution of said work, for materials or labor necessarily therein by him employed.

Sec. 7. Said commissioners shall have an office assigned to them by the city council, in the city hall, and shall have power to employ a secretary, at a salary not to exceed one hundred and fifty dollars per month, and such other clerical assistance as shall be provided them by the city council, the salaries and fees of whom shall be established and fixed by said city council.

Sec. 8. All such charges and expenses shall be deemed as expenses of said work of improvement, and be a charge only upon the funds devoted to the particular work or improvement as provided hereinafter. All payments, as well for the land and improvements taken or damaged, and for the charges and expenses, shall be paid by the city treasurer, upon warrants drawn upon said fund from time to time, signed by said commissioners, or a majority of them. All such warrants shall state whether they are issued for land or improvements taken or damaged, or for charges and expenses, and that the demand is only payable out of the money in said fund, and in no event shall the city be liable for the failure to collect any assessment made by virtue hereof, nor shall said warrant be payable out of any other fund, nor a claim against the city.

Sec. 9. Said commissioners shall proceed to view the lands described in the resolution of intention, and may examine witnesses on oath, to be administered by any of them. Having viewed the land to be taken, and the improvements affected, and considered the testimony presented, they shall proceed with all diligence to determine the value of the land, and the damage to improvement and property affected, and also the amount of the expenses incident to said work or improvement, and, having determined the same, shall proceed to assess the same upon the lands described in said district herein provided. The lands fronting on said extension or widening shall only be assessed to the depth of one hundred and twenty feet, or the full depth of the lots, not exceeding one hundred and fifty feet; and said lands shall be assessed with reference to the amount of grading to be done, and their location on the grades of said street or improvement; and the expenses of grading said lots or lands, whether filling or

cutting shall be necessary to place them on the grade of said street or improvement, shall be estimated in determining the value of the land, and the damage to the improvement and property affected.

Sec. 10. Said commissioners, having made their assessment of benefits and damage, shall, with all diligence, make a written report thereof, to the city council, and shall accompany their report with a plat showing the land taken, or about to be taken, for the work or improvement, and the lands assessed, showing the relative location of each district, block, lot, or portion of lot, and its dimensions, so far as the commissioners can reasonably ascertain the same. Each block and lot, or portion of lot, taken or assessed, shall be designated and described in said plat by an appropriate number, and a reference to it by such descriptive number shall be a sufficient description of it in any suit entered to condemn and in all respects. When the report and plat are approved by the city council, a copy of said plat, appropriately designated, shall be filed by the clerk thereof in the office of the recorder of the county.

Sec. 11. Said report shall specify each lot, subdivision, or piece of property taken or injured by the widening or other improvement, or assessed therefor, together with the name of the owner or claimant thereof, or of persons interested therein as lessees, encumbrancers, or otherwise, so far as the same are known to such commissioners, and the particulars of their interests, so far as the same can be ascertained, and the amount of value or damage, or the amount assessed, as the case may be.

Sec. 12. If in any case the commissioners find conflicting claims of title exist, or shall be in ignorance or doubt as to the ownership of any lot of land, or of any improvements thereon, or any interest therein, it shall be set down as belonging to unknown owners. Error in the designation of the owner or owners of any land or improvements, or of the particulars of their interest, shall not affect the validity of the assessment or the condemnation of the property to be taken.

Sec. 13. Said report and plat shall be filed in the clerk's office of the city council, and thereupon



the clerk of said city council shall give notice of such filing by publication for at least ten days in one or more daily newspapers published and circulated in said city; or if there be no daily newspaper, by three successive insertions in a weekly or semi-weekly newspaper so published and circulated. Said notice shall also require all persons interested to show cause, if any, why such report should not be confirmed, before the city council, on or before a day fixed by the clerk thereof, and stated in said notice, which day shall be not less than thirty days from the first publication thereof.

Sec. 14. All objections shall be in writing, and filed with the clerk of the city council, who shall, at the next meeting after the day fixed in the notice to show cause, lay the said objections, if any, before the city council, which shall fix a time for hearing the same, of which the clerk shall notify the objectors in the same manner as objectors to the original resolution of intention. At the time set, or at such other time as the hearing may be adjourned to, the city council shall hear such objections and pass upon the same; and at such time, or if there be no objections at the first meeting after the day set in such order to show cause, or such other time as may be fixed, shall proceed to pass upon such report, and may confirm, correct or modify, or may sustain the objections thereto and order the commissioners to make a new report, assessment, and plat, which in either case shall be filed, and notice given and hearing had, as in the case of the original report; but no report, or plat, or assessment shall be filed by said commissioners after the expiration of ten months after their appointment.

Sec. 15. The clerk of said city council shall forward to the street superintendent of the city a certified copy of the report, assessment, and plat as finally confirmed and adopted by the city council. Such certified copy shall thereupon be the assessment roll, and thirty days after such filing shall become a lien on the property assessed therein, for its proportion of the costs of said improvement, as hereinbefore provided.

Sec. 16. The superintendent of streets shall thereupon give notice by publication for ten days

in two daily newspapers published and circulated in said city and county, or by two successive insertions in a weekly or semi-weekly newspaper so published and circulated, that he has received said assessment roll, and that all sums levied and assessed in said assessment roll are due and payable immediately, and that the payment of said sums is to be made to him within thirty days from the date of the first publication of said notice. Said notice shall also contain a statement that all assessments not paid before the expiration of said thirty days will be declared to be delinquent, and that thereafter the sum of five per cent. upon the amount of each delinquent assessment, together with the cost of advertising each delinquent assessment, will be added thereto. When payment of any assessment is made to said superintendent of streets, he shall write the word "paid" and the date of payment opposite the respective assessments so paid, and the names of persons by or for whom said assessment is paid, and shall, if so required, give a receipt therefor. On the expiration of said thirty days, all assessments then unpaid shall be and become delinquent, and said superintendent of streets shall certify such fact at the foot of said assessment roll, and shall add five per cent. to the amount of each assessment so delinquent. The said superintendent of streets shall, within five days from the date of said delinquency, proceed to advertise and collect the various sums delinquent and the whole thereof, including the cost of advertising, which last shall not exceed the sum of fifty cents for each lot, piece, or parcel of land separately assessed, by the sale of the assessed property in the same manner as is or may be provided for the collection of state and county taxes; and after the date of said delinquency, and before the time of said sale herein provided for, no assessment shall be received unless at the time the five per cent. added thereto, as aforesaid, together with the cost of advertising then already incurred, shall be paid therewith. Said list of delinquent assessments shall be published daily for five days in one or more daily newspapers published and circulated in such city, or by at least one insertion in a weekly newspaper so published and circu-

lated, before the day of sale of such delinquent assessment. Said time of sale must not be less than seven days from the date of the first publication of said delinquent assessment list, and the place must be in or in front of the office of said superintendent of streets. All property sold shall be subject to redemption in the same time and manner as in sales for delinquent state and county taxes; and the superintendent of streets may collect for each certificate fifty cents, and for each deed one dollar. All provisions of the law in reference to the sale and redemption of property for delinquent state and county taxes in force at any given time shall also then, so far as the same are not in conflict with the provisions of this act, be applicable to the sale and redemption of property for delinquent assessments hereunder, including the issuance of certificates and the execution of deeds. The deed of the street superintendent made after such sales, in case of failure to redeem, shall be prima facie evidence of the regularity of all proceedings hereunder and of title in the grantee. It shall be conclusive evidence of the necessity of taking or damaging the lands taken or damaged, and of the correctness of the compensation awarded therefor. The superintendent of streets shall, from time to time, pay over to the city treasurer all moneys collected by him on account of any such assessments. The city treasurer shall, upon receipt thereof, place the same in a separate fund, designating such fund by the name of the street, square, lane, alley, court, or place for the widening, opening, or other improvement of which the assessment was made. Payments shall be made from said fund to the parties entitled thereto, upon warrants signed by the commissioners, or a majority of them.

Sec. 17. When sufficient money is in the hands of the city treasurer, in the fund devoted to the proposed work or improvement, to pay for the land or improvements taken or damaged, and when, in the discretion of the commissioners, or a majority of them, the time shall have come to make payments, it shall be the duty of the commissioners to notify the owner, possessor, or occupant of any land or improvements thereon to whom damages shall have been awarded that a

warrant has been drawn for the payment of the same, and that he can receive such warrant at the office of such commissioners, upon tendering a conveyance of any property to be taken; such a notification, except in the case of unknown owners, to be made by depositing a notice, postage paid, in the postoffice, addressed to his last known place of abode or residence. If, at the expiration of thirty days after the deposit of such notice, he should not have applied for such warrant and tendered a conveyance of the land to be taken, the warrant so drawn shall be deposited with the county treasurer, and shall be delivered to such owner, possessor, or occupant, upon tendering a conveyance as aforesaid, unless judgment of condemnation shall be had, when the same shall be canceled.

Sec. 18. If any owner of land to be taken neglects or refuses to accept the warrant drawn in his favor, as aforesaid, or objects to the report as to the necessity of taking his land, the commissioners, with the approval of the city council, may cause proceedings to be taken for the condemnation thereof, as provided by law under the right of eminent domain. The complaint may aver that it is necessary for the city to take or damage or condemn the said lands, or an easement therein, as the case may be, without setting forth the proceedings herein provided for, and the resolution and ordinance ordering said work to be done shall be conclusive evidence of such necessity. Such proceedings shall be brought in the name of the municipality, and have precedence, so far as the business of the court will permit; and any judgment for damages therein rendered shall be payable out of such portion of the special fund as may remain in the treasury, so far as the same can be applied. At any time after trial and judgment entered, or preceding an appeal, the court may order the city treasurer to set apart in the city treasury a sufficient sum from the fund appropriated to the particular improvement, to answer the judgment and all damages, and thereupon may authorize and order the municipality to enter upon the land and proceed with the proposed work and improvement. In case of a deficiency in said fund to pay the whole of said

judgment and damages, the city council shall order the balance thereof to be paid out of the general fund of the treasury.

Sec. 19. The treasurer shall pay such warrants out of the appropriate fund, and not otherwise, in the order of their presentation; provided, that warrants for land or improvements taken or damaged shall have priority over warrants for charges and expenses, and the treasurer shall see that sufficient money is and remains in the fund to pay all warrants of the first class before paying any of the second.

Sec. 20. If any title attempted to be acquired by virtue of this act shall be found to be defective from any cause, the city council may again institute proceedings to acquire the land as in this act provided, or otherwise, or may authorize the commissioners to purchase the same, and include the cost thereof in a supplementary assessment, as provided in the last section.

Sec. 21. 1. The words "work" and "improvement," as used in this act, shall include all work mentioned in section one of this act.

2. In case there is no daily or weekly or semi-weekly newspaper printed and circulated in the city, then such notices as are herein required to be published in a newspaper shall be posted and kept posted for the length of time required herein for the publication of the same in a weekly newspaper, in three of the most public places in such city. Proof of the publication of posting of any notice provided for herein shall be made by affidavit of the owner, publisher, or clerk of the newspaper, or of the poster of the notice.

3. The word "municipality" and the word "city" shall be understood and so construed as to include all corporations heretofore organized and now existing, or hereafter organized, for municipal purposes.

4. The term "street superintendent" and "superintendent of streets," as used in this act, shall be understood and so construed as to include, and are hereby declared to include, any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof, in any city. In all those cities where there is no street superintendent or superintend-

ent of streets, the city council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent or superintendent of streets, and all the provisions hereof applicable to the street superintendent or superintendent of streets shall apply to such persons so appointed.

5. The term "city council" is hereby declared to include any body or board which, under the law, is the legislative department of the government of any city.

6. The term "clerk" and "city clerk," as used in this act, is hereby declared to include any person or officer who shall be clerk of said city council.

7. The term "treasurer" or "city treasurer," as used in this act, shall include any person or officer who shall have charge and make payment of the city funds.

Sec. 22. The mayor, tax collector, and city or city and county attorney, as the case may be, of all municipalities wherein there is existing at the passage of this act any commission appointed for the opening, extending, or widening of streets under the provision of said act of March sixth, eighteen hundred and eighty-nine, and which commission is not within the proviso of section twenty-three of this act, are hereby constituted a board of audit, whose duty it shall be, upon petition of said commission, to carefully examine all the accounts, bills, and expenditures, made or contracted for by said commission, including the salaries of the said commissioners; and said board of audit, or a majority of its members, is hereby authorized to audit and allow such amounts as it shall find to be just and reasonable, and report said amounts, with the items thereof and to whom payable, to the city council. Said report shall be final and conclusive as to said amounts. The city council is authorized to pass and allow and order paid to each of the persons entitled thereto, the amounts so found to be due, in the same manner as claims and demands against such municipality are passed, allowed, and ordered paid. The payment of said amounts shall be provided for in the tax levy next thereafter made by said city council, and when said taxes are collect-



ed the said amounts shall be paid out of the general fund of said municipality in the same manner as other claims and demands are paid.

Sec. 23. The act approved March sixth, eighteen hundred and eighty-nine, entitled "An act for opening, widening, and extending streets," etc., after the passage of this act, shall not apply to any city or city and county having a population of forty thousand inhabitants or over; but as to any city or city and county having a population of forty thousand or over said act shall not apply; but said cities and cities and counties shall be subject only to the provisions of this act in all matters embraced within the purview of this act; provided, however, that the present city council or other governing body of any municipality of forty thousand inhabitants or over shall have power, by a three-fourths vote of its members, to extend the life of any existing commission until its work shall have been completed as in said act provided; but in all other cases in cities or cities and counties of forty thousand inhabitants or over, the assessments, plats, and reports filed by said commissioners are declared to be null and void, and all moneys collected under the provisions of said act shall be refunded to the persons from whom the same were collected, in the same manner as taxes which have been twice collected, and the said commissioners are hereby removed from office; provided further, however, that in case of the lands necessary to widen or open any street, there shall have been actually purchased and conveyed to the municipality, under the provisions of said act of March sixth, eighteen hundred and eighty-nine, more than one-half of the land necessary for said improvements, as shown by the report and plat on file, then said streets, and the improvement thereof, shall not be affected by this act, but the same shall be completed as commenced.

Sec. 24. This act shall be liberally construed, to promote the objects thereof.

This act shall take effect and be in force from the time of its passage.

An act to provide a system of street improvement bonds to represent certain assessments for the cost of street work and improvement within municipalities, and also for the payment of such bonds.

[Approved February 27, 1893; Stats. 1893, p. 33.]

Section 1. Wherever in this act the phrase "street-work act" is used, it means, and shall be taken to mean, the act entitled "An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for construction of sewers within municipalities," approved March eighteenth, eighteen hundred and eighty-five, and all acts amendatory thereof or supplementary thereto; and wherever in this act the name of any municipal body or officer is used, or any word or phrase is used which is not herein expressly defined, it means and shall be taken to mean such municipal body or officer, or word or phrase, as the same is expressly defined in said street-work act, and in all acts amendatory thereof or supplementary thereto.

Sec. 2. Whenever the city council of any municipality in this state shall find, upon estimates of the city engineer, that the cost of any proposed work or improvement authorized by said street-work act will be greater than one dollar per front foot along each line of the street so proposed to be improved, including the cost of intersection work assessable upon said frontage, it shall have the power, in its discretion, to determine that serial bonds shall be issued to represent the cost of said work or improvement, in the manner and form hereinafter provided. Said serial bonds shall extend over a period not to exceed ten years from their date, and an even annual proportion of the principal sum thereof shall be payable, by coupon, on the second day of January every year after their date, until the whole is paid, and the interest shall be payable semi-annually, by coupon, on the second days of January and July, respectively, of each year, at the rate of not to exceed ten per cent. per annum on all sums unpaid, until the whole of said principal and interest are

paid. Said bonds and interest thereon shall be paid at the office of the city treasurer of said municipality, who shall keep a fund designated by the name of said bonds, into which he shall receive all sums paid him for the principal of said bonds and the interest thereon, and from which he shall disburse such sums, upon the presentation of said coupons; and under no circumstances shall said bonds or the interest thereon be paid out of any other fund. Said city treasurer shall keep a register in his office, which shall show the series, number, date, amount, rate of interest, payee and indorsees of each bond, and the number and amount of each coupon of principal or interest paid by him, and shall cancel and file each coupon so paid.

Sec. 3. When said city council shall determine that serial bonds shall be issued to represent the expenses of any proposed work or improvement under said street-work act, it shall so declare in the resolution of intention to do said work, and shall specify the rate of interest which they shall bear. The like description of said bonds shall be inserted in the resolution ordering the work, in the resolution of award, and in all notices of said proceedings required by said street-work act to be either posted or published; and also a notice that a bond will issue to represent each assessment of fifty dollars or more remaining unpaid for thirty days after the date of the warrant, or five days after the decision of said council upon an appeal, and describing the bonds, shall be included in the warrant provided for in section nine of said street-work act.

Sec. 4. After the full expiration of thirty days from the date of the warrant, or if an appeal be taken to the city council, as provided in section eleven of said street-work act, then five days after the final decision of said council, and after the street superintendent shall have recorded the return, as provided in section ten of the same act, the street superintendent shall make and certify to the city treasurer a complete list of all assessments unpaid, which amount to fifty dollars or over, upon any assessment or diagram number; and said treasurer shall thereupon make out, sign, and issue to the contractor, or his assigns, payee

of the warrant and assessment, a separate bond, representing upon each lot or parcel of land upon said list the total amount of the assessments against the same, as thereon shown. And if said lot or parcel of land is described upon said assessment and diagram by its number or block, or both, and is also designated by its number or block, or both, upon the official map of said municipality, or upon any map on file in the office of the county recorder of the county in which said municipality is situated, then it shall be in said bond a sufficient description of said lot or parcel of land to designate it by said number or block, or both, as it appears on said official or recorded map. Said bond shall be substantially in the following form:

Series (designating it), in the city (or other form of the municipality) of (naming it).

\$———|100.

NO.—.

Under and by virtue of an act of the legislature of the state of California (title of this act), I, out of the fund for the above designated street improvement bonds, series —, will pay to —, or order, the sum of — (\$—), with interest at the rate of — per cent. per annum, all as is hereinafter specified, and at the office of the — treasurer of the — of —, state of California. This bond is issued to represent the cost of certain street work upon —, in the — of —, as the same is more fully described in the assessment number —, issued by the street superintendent of said —, after his acceptance of said work, and recorded in his office. Its amount is the amount assessed in said assessment against the lot or parcel of land numbered therein, and in the diagram attached thereto, as number —, and which now remains unpaid, but until paid, with accrued interest, is a first lien upon the property affected thereby, as the same is described herein, and in said recorded assessment with its diagram, to wit, the lot or parcel of land in said — of —, county of —, state of California, —.

This bond is payable exclusively from said fund, and neither the municipality nor any officer thereof is to be holden for payment otherwise of its principal or interest. The term of this bond is — years from its date, and at the expiration

of said time the whole sum then unpaid shall be due and payable; but on the second day of January of each year after its date an even annual proportion of its whole amount is due and payable, upon presentation of the coupon therefor, until the whole is paid, with all accrued interest at the rate of — per centum per annum. The interest is payable semi-annually, to wit, on the second days of January and of July in each year hereafter, upon presentation of the coupons therefor, the first of which is for the interest from date to the next second day of —, and thereafter the interest coupons are for semi-annual interest, except the last, which is for interest from the semi-annual payment next preceding and to the date of the final maturity of this bond. Should default be made in the annual payment upon the principal, or in payment of interest from the owner of said lot or parcel of land, or any one in his behalf, the holder of this bond is entitled to declare the whole unpaid amount to be due and payable, and to have said lot or parcel of land advertised and sold forthwith, in the manner provided by law for sale of land assessed for state and county taxes delinquent in the payment thereof.

At said — of —, this — day of —, in the year one thousand — hundred and —.

City treasurer of the — of —.

Provided, that in case the amount of unpaid assessments upon any lot or parcel of land shall be less than fifty dollars, then the same shall be collected as is hereinbefore provided in part one of said street-work act.

Provided, also, that if any person, or his authorized agent, shall at any time before the issuance of the bond for said assessments upon his lot or parcel of land present to the city treasurer his affidavit, made before a competent officer, that he is the owner of a lot or parcel of land in said list, accompanied by the certificate of a searcher of records that he is such owner of record, and with such affidavit and certificate such person notifies said treasurer in writing that he desires no bond to be issued for the assessments upon said lot or parcel of land, then no such bond shall be issued therefor, and the payee of the warrant, or his as-

signs, shall retain his right for enforcing collection as if said lot or parcel of land had not been so listed by the street superintendent. The bonds so issued by said treasurer shall be payable to the party to whom they issue, or order, and shall be serial bonds, as is hereinbefore described, and shall bear interest at the rate specified in the resolution of intention to do said work. They shall have annual coupons attached thereto, payable in annual order, on the second day of January in each year after the date of the bond, until all are paid, and each coupon shall be for an even annual proportion of the principal of the bond. They shall have semi-annual interest coupons thereto attached, the first of which shall be payable upon the second day of January or July, as the case may be, next after its date, and shall be for the interest accrued at that time, and the last of which shall be for the amount of interest accruing from the second day of January or July, as the case may be, next preceding the maturity of said bonds to the maturity thereof. The city treasurer shall, in addition to his other duties in the premises, report all coupon payments of principal upon said bonds to the street superintendent, who shall forthwith indorse the same upon the margin of the record of the assessment to the credit of which the same is paid, and said assessment shall be a first lien upon the property affected thereby until the bond issued for the payment thereof, and the accrued interest thereon, shall be fully paid. Said bonds, by their issuance, shall be conclusive evidence of the regularity of all proceedings thereto under said street-work act and this act, previous to the making of the certified list of all assessments unpaid to the amount of fifty dollars or over by the street superintendent, to the city treasurer, and of the validity of said lien, up to the date of said list.

Sec. 5. Whenever, through the default of the owner of any lot or parcel of land to represent the assessment upon which such bond has been issued, any payment, either upon the principal or of the interest, shall not be made when the same is due, and the holder of the bond thereupon demands, in writing, that the said city treasurer proceed to advertise and sell said lot or parcel of land, as herein provided, then the whole bond,



or its unpaid remainder, with its accrued interest, shall become due and payable immediately, and on the day following shall become delinquent; and the city treasurer shall have, and shall act thereafter with, all the powers and duties of the tax collector in the collection of unpaid state and county taxes, and shall forthwith proceed to advertise and sell said lot or parcel of land by proceedings in all respects the same as are provided by law for the collection of delinquent state and county taxes. All such provisions and proceedings, after taxes have become delinquent, including the certificate of sale, the right of redemption, and the deed, with the respective costs thereof, are hereby made applicable to this case.

Sec. 6. Whenever any railroad track or tracks of any description exists upon any street or streets on which the city council has ordered work to be done or improvements made, excepting therefrom such portions as is required by law to be kept in order or repair by any person or company having railroad tracks thereon, the said council may, at any time thereafter, order such person or company to perform upon said excepted portion the work or improvements, similar in all respects to that already ordered to be performed under the same specifications and superintendence, with the same materials, within the same time, and to the like satisfaction and acceptance. Thereupon it shall be the duty of the clerk of said council to deliver immediately a copy of such order, certified by him, to such person or company, and to make and preserve in his office a certificate of such delivery, its date, and upon whom made. Should such person or company, for thirty days, or within such extension of time as the city council may grant, thereafter refuse or neglect to make or have made such work or improvement in the manner or time ordered, it shall be the duty of the city council to have such work or improvement performed, and such refusal or neglect punished in the manner provided by law. Within fifteen days after receiving the certified copy of said order, such person or company may file with the clerk of said council a written assumption of the performance of said work or improvement, according to the order, or a request to the council to have such work

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or improvement performed, for and at the expense of such person or company, in the manner herein provided. The failure to file such instrument within said time shall be taken and deemed to be a refusal to comply with the order. Upon reception of said assumption of direct performance of said work or improvement, the city council shall take no further proceedings in the matter, unless such person or company neglects or fails for thirty days, or such further time as the council may grant, to comply with the provisions of the order. But if such person or company files the said request that the said council have such work or improvement performed, or fails to perform said work within thirty days, or within such further time as the council may grant, then said city council may pass an ordinance of intention to perform said work, which ordinance shall specify the work to be performed, and a statement that unless within thirty days after the recording of the return of the warrant, or within five days after the final decision of the council on an appeal, the said person or company shall pay the cost of said work, or the street superintendent of said city shall issue bonds to represent the cost of said work, stating also that the cost of said work, in case bonds shall issue, shall be paid in ten yearly installments, and also the rate of interest (not to exceed ten per cent per annum) that the same shall bear. The subsequent procedure shall be as provided by the "street-work act." A similar statement shall also be incorporated in all notices required to be posted or published by the provisions of the "street-work act"; also in the ordinance or resolution ordering the work, advertisement for proposals, and in the contract. Whenever the person or company owning any such railroad shall not have, within thirty days after the recording of the return of the warrant, or within five days after the final decision of the council on an appeal, paid the cost of such work, the street superintendent shall issue to the contractor, or his assigns, bonds for the amount of such cost, which shall describe the franchise, tracks, and road-bed along or between which said work has been performed, and describing the same as upon the assessment and diagram, giving its assessment number. Such bonds shall also de-

scribe the work performed, giving the total amount of the cost of such work, the name of the owner of said railroad, the number of installments in which the cost of the work is to be paid, and the rate of interest which the deferred payments shall bear. Said bonds shall be in sums of not less than one hundred dollars or more than one thousand dollars, and shall recite that the total amount of the cost of such work, together with the interest thereon, as represented in said bonds, is, except state, county, and municipal taxes, a first lien upon all the track, road-bed, switches, and franchises of said railroad lying within the corporate limits of the city or town, on any part of which said work has been performed. Said street superintendent shall also keep a record of such bonds, as required by section eighteen of the "street-work act." Whenever bonds have been issued, as herein provided, the same, together with the cost of such work and the interest thereon, shall be, except state, county, or municipal taxes, a first lien upon all the tracks, road-beds, switches, and franchises of said railroad within the corporate limits of the city or town, on any part of which said work has been performed. Sections four and five of this act, regarding the form, issuance, and foreclosure of street bonds, and the sale of property described therein, shall apply hereto, except that the work required to be performed by the treasurer by said sections shall be performed by the street superintendent, in so far as the bonds for the paving of railroads are concerned. None of the provisions of the "street-work act" in regard to a protest against the work shall apply to any work contemplated by this section. All provisions of the "street-work act" not inconsistent with the provisions hereof shall apply hereto.

Sec. 7. The term "city treasurer," as used in this act, shall be held to mean and include any person who, under whatever name or title, is the custodian of the funds of the municipality.

Sec. 8. The act entitled "An act to amend an act entitled 'An act to provide for work upon streets, lanes, alleys, courts, places, and sidewalks, and for construction of sewers within municipalities,' approved March eighteenth, eighteen hundred and eighty-five, by adding thereto an ad-

ditional part, numbered four, consisting of sections thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, and forty-four, relative to a system of street improvement bonds," approved March seventeenth, eighteen hundred and ninety-one, is hereby repealed, except as to any and all proceedings hitherto commenced thereunder, which proceedings may be completed and have full force as is therein provided.

Sec. 9. This act shall take effect and become of force from and after its passage.

An Act fixing and regulating the manner of sale and redemption of real property for delinquent assessments to pay the damages, costs, and expense for or incident to laying out, opening, extending, widening, straightening, diverging, curving, contracting, or closing up, in whole or in any part, any street, square, lane, alley, court, or place within municipalities in this State.

[Stat. approved March 27, 1895; Stats. 1895, chap. clxxvii.]

The People of the State of California, represented in the Senate and Assembly, do enact as follows:

Section 1. All sales, and redemptions after sale, of any real property upon which the assessment levied and assessed to pay the damages, costs, and expense for or incident to laying out, opening, extending, widening, straightening, diverging, curving, constructing, or closing up, in whole or in part, any street, square, lane, alley, court, or place within municipalities in this State, shall remain unpaid and become delinquent under the provisions of any Act or law regulating such matters, shall be made and had in the same time and manner as such sales and redemption were required by law to be made and had on the first day of January, Anno Domini eighteen hundred and ninety-five.

Sec. 2. All Acts or parts of Acts in conflict with this Act are hereby repealed.

Sec. 3. This Act shall take effect and be in force from and after its passage and approval.

## TITLE 273.

## SUNDAYS.

Acts relating to: See Penal Code, Appendix, title, Sunday, p. 695.

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## TITLE 274.

## SUPERVISORS.

Acts relating to: See Penal Code, Appendix, title, Supervisors, p. 696; Political Code, Appendix, title, Supervisors, p. 1065.

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## TITLE 275.

## SUPREME COURT REPORTER.

Deputy for: See Political Code, p. 1065.

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## TITLE 276.

## SURVEYOR GENERAL.

Act relating to: See Political Code, Appendix, title Surveyor General, p. 1066.

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## TITLE 277.

## SURVEYORS.

An act to define the duties of and to license land surveyors.

[Approved March 31, 1891; Stats. 1891, p. 478.]

Section 1. Every person desiring to become a licensed land surveyor in this state must present to the state surveyor general of this state a certificate that he is a person of good moral character; also, a certificate signed by three licensed sur-

veyors, or a certificate signed by the board of examining surveyors (provided for in section five of this act), which certificate shall set forth that the person named therein is, in the opinion of the person signing the same, a fit and competent person to receive a license as a land surveyor, together with his oath that he will support the constitution of this state and of the United States, and that he will faithfully discharge the duties of a licensed land surveyor, as defined in this act.

Sec. 2. Upon receipt of such certificate and oath by the state surveyor general, it shall be his duty forthwith to issue to such applicant a license, without charge, which license shall set forth the fact that the applicant is a competent surveyor, or that he has had at least two years' experience in the field as a surveyor or assistant surveyor.

Sec. 3. Such license shall contain the full name of the applicant; the technical institution from which he is a graduate (if he be a graduate), or if he be not a graduate, the fact must be stated in the license; his birthplace, age, and to whom issued; the name of the person upon whose certificate the license is issued, and the date of its issuance.

Sec. 4. All papers received by the state surveyor general on application for licenses shall be kept on file in his office, and a proper index and record thereof shall be kept by him, and a list of all licensed land surveyors shall be kept by him, and he shall monthly transmit to the county recorder of each county in this state a full and correct list of all persons so licensed; and it is hereby made the duty of such recorders to keep such lists in their offices in such a way as they may be easily accessible to all persons.

Sec. 5. Within twenty days after the passage of this act, the governor shall appoint three surveyors in good standing, members of the technical society of the Pacific coast, and two other surveyors in good standing, not members of such society, as a board of examining surveyors, who shall conduct such examinations and make such inquiries as to them may seem necessary to ascertain the qualifications of applicants for surveyors' licenses.

Sec. 6. A majority of the board of examining surveyors shall meet on the first Friday of each month during their term of office, in the rooms



of the technical society of the Pacific coast, in San Francisco, and at such other times and places as they may select. The members of the board shall hold office for the term of one year from the date of appointment, and shall serve without compensation.

Sec. 7. Every licensed surveyor shall have a seal of office, the impression of which must contain the name of the surveyor, his principal place of business, and the words "licensed surveyor"; and all maps and papers signed by him, and to which said seal has been attached, shall be prima facie evidence in all the courts of this state.

Sec. 8. Surveyors' licenses, issued in accordance with this act, shall remain in force until revoked for cause, as hereinafter provided.

Sec. 9. Every licensed surveyor is authorized to administer and certify oaths, when it becomes necessary to take testimony to identify or establish old or lost corners; or, if a corner or monument be found in a perishable condition, and it appears desirable that evidence concerning such corner or monument be perpetuated; or whenever the importance of the survey makes it desirable, to administer an oath for the faithful performance of duty to his assistants. A record of such oaths shall be preserved as a part of the field notes of the survey.

Sec. 10. Every licensed surveyor is hereby authorized to make surveys relating to the sale or subdivision of lands, the retracing or establishing of property or boundary lines, public roads, streets, alleys, or trails; and it shall be the duty of each surveyor, whenever making any such surveys, except those relating to the retracing or subdivision of cemetery or town lots, whether the survey be made for private persons, corporations, cities, or counties, to set permanent and reliable monuments, and such monuments must be permanently marked with the initials of the surveyor setting them.

Sec. 11. Within sixty days after a survey relating to the sale or subdivision of lands, the retracing or establishing of property and boundary lines, public roads or trails, original cemetery or town sites, and their subdivisions, has been made by a licensed surveyor, he shall file with the recorder of the county in which such survey or any portion thereof lies, a record of sur-

vey. Such record shall be made in a good draughtsman-like manner, on one or more sheets of firm paper of the uniform size of twenty-one by thirty inches. This record of survey shall be either an original plat or a copy thereof, and must contain all the data necessary to enable any competent practical surveyor to retrace the survey. The record of survey must show: All permanent monuments set, describing their size, kind, and location, with reference to the corners which they are intended to perpetuate; all bearing or witness trees marked in the field; complete outlines of the several tracts or parcels of land surveyed within courses, and lengths of boundary lines; the angles, as measured by Vernier readings, which the lines of blocks or lots, if the record relate to an original town site survey, make with each other and with the center lines of adjacent streets, alleys, roads, or lanes; the variations of the magnetic needle with which old lines have been retraced; the scale of the map; the date of survey; a proper connection with one or more points of an original or larger tract of land and the name of the same; the name of the grant or grants, or of the townships and ranges, within which the survey is located; the signature and seal of the surveyor; provided, that nothing in this section shall require record to be made of surveys of a preliminary nature, where no monuments or corners are established.

Sec. 12. The record of surveys thus filed with the county recorder of any county must be by him pasted into a stub-book, provided for that purpose, and he must keep a proper index of such records, by name of owner, by name of surveyor, by name of grant, city, or town, and by United States subdivisions; and he shall make no charge for filing and indexing such records of surveys.

Sec. 13. Upon the failure of any licensed surveyor to comply with the requirements of this act and the furnishing of satisfactory proofs of such fact, the state surveyor general must revoke his license, and no other license shall be issued to him within one year from such revocation. A violation of section eleven of this act shall be a misdemeanor, and any person convicted of such violation shall be punished by a fine not to exceed more than one hundred dollars, or imprisonment in the county jail not exceeding thirty days.

Sec. 14. In case said board shall refuse to meet and examine applicants for licenses as in this act provided, and issue to such applicants the certificate or certificates mentioned in this act, if such person be a fit and competent person to receive the same, they may be compelled to do so by mandamus; and if upon the hearing of such mandamus it appears that they have willfully and wrongfully refused to examine any applicant, or to issue him a certificate when he is entitled to the same, such board so refusing or failing shall be, jointly and severally, liable for all cost of said mandamus proceeding, including attorney's fee of five hundred dollars, and shall be so jointly and severally liable to any person aggrieved by such refusal, in the sum of five hundred dollars, as fixed, settled, and liquidated damages, which may be recovered in any court in this state, and the judgment (if it be for plaintiff) in mandamus shall be prima facie evidence of such injury and damage in any action which may be brought to recover damages under the provisions of this act.

Sec. 15. All that part of the Code of Civil Procedure of this state relating to mandamus is hereby made applicable to the provisions of this act; and all proceedings in mandamus under this act shall be in accordance therewith.

Sec. 16. This act shall take effect on the first day of July, eighteen hundred and ninety-one.

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## TITLE 278.

### SUTTER COUNTY.

A reference to special laws affecting Sutter county is contained in Deering's Annotated Penal Code, pp. 711 and 712.

In addition to those there referred to consult:

Act approved March 19, 1889; Stats. 1889, p. 355, relating to levee district No. 1; act approved March 10, 1891, Stats. 1891, p. 62, relating to swamp land district seventy; an act amending the act authorizing supervisors to construct bridge across Feather river, approved March 19, 1889; Stats. 1889, p. 323.

## TITLE 279.

## SUTTER'S FORT.

Consult the following acts:

An act to provide for the appointment of a board of Sutter's Fort trustees, and for the acquisition of the Sutter's Fort property, and providing for an appropriation for the preservation, protection, and improvement of said property. [Approved March 7, 1891; Stats. 1891, p. 25.]

X An act providing an appropriation for the purpose of completing and preserving Sutter's Fort. [Approved March 9, 1893; Stats. 1893, p. 102.]

An act for the appointment of a guardian. [Approved March 16, 1895, p. 56.]

X An act providing an appropriation for the improvement of and repairs to Sutter's Fort and grounds.

[Stat. approved April 1, 1897; Stats. 1897, chap. cclxxvi.]

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TITLE 280.

## SWAMP AND OVERFLOWED LANDS.

Acts relating to: See ante, title "Lands of the State."

An act to determine that lands of this state are swamp and overflowed when returned as such by the United States surveyor general.

[Approved March '31, 1891; Stats. 1891, p. 221.]

Section 1. Lands within this state which have been or may hereafter be returned by the United

States surveyor general as swamp and overflowed lands, and shown as such on approved township plats, shall, as soon as patents have been or may be issued therefor by this state, be held to be of the character so returned; provided, however, that nothing herein contained shall be construed to affect the rights of any homestead or pre-emption settler claiming under the laws of the United States, nor shall it affect any suit now pending in any court as between the parties thereto; provided, that nothing contained in this act shall be construed to prejudice the rights of any settler now or hereafter located upon said lands to perfect title to the same, if permitted under existing laws.

Sec. 2. This act shall take effect from and after its passage.

An act to declare certain tide lands public grounds, and granting the same to the county of San Mateo in trust for the use of the public.

[Approved February 27, 1893; Stats. 1893, p. 42.]

An act quitclaiming to the successors in interest of James Bowman all claim of the state of California in that certain tract of land in the city and county of San Francisco known as "water lot No. 415," and empowering and directing the governor to execute a deed of quitclaim therefor to said successors in interest of said James Bowman.

[Approved March 11, 1893; Stats. 1893, p. 151.]

An act quitclaiming to the successors in interest of Sallie C. Perry all claim of the state of California in that certain tract of land in the city and county of San Francisco known as "city slip lot number one hundred and sixteen," and empowering and directing the governor to execute a deed of quitclaim therefor to said successors in interest of said Sallie C. Perry.

[Approved March 9, 1893; Stats. 1893, p. 102.]

An act regulating the sale of the lands uncovered by the recession or drainage of the waters of inland lakes, and unsegregated swamp and overflowed lands, and validating sales and surveys heretofore made.

[Approved March 24, 1893; Stats. 1893, p. 341.]

Section 1. Any person desiring to purchase any of the lands uncovered by the recession or drainage of the waters of inland lakes, and inuring to the state by virtue of their sovereignty, or the swamp and overflowed lands not segregated by the United States, shall make an application therefor to the surveyor general of the state, which application shall be accompanied by applicant's affidavit that he is a citizen of the United States, or has declared his intention to become such, a resident of this state, of lawful age, that he desires to purchase such lands (describing the same by legal subdivisions, or by metes and bounds if the legal subdivisions are unknown) under the provisions of this act; that he desires to purchase the same for his own use and benefit, and for the use and benefit of no other person or persons whomsoever, and that he has made no contract or agreement to sell the same, and that he does not own any state lands which, together with that now sought to be purchased, exceeds six hundred and forty acres.

Sec. 2. Upon the filing of said application, when the land has not been sectionized, the surveyor general shall authorize the county surveyor of the county where the whole or the greater portion of the land lies to survey the same, who shall make an actual survey thereof, at the expense of the applicant, establishing four corners to each quarter-section, and connecting the same with a United States survey; and he must, within thirty days, file with the surveyor general a copy, under oath, of his field-notes and plat, and a statement, under oath, showing whether or not the land is occupied by any actual settler.

Sec. 3. If the surveyor thus authorized shall fail to make his return to the surveyor general within the time specified in the preceding section,



the surveyor general may designate another person to make the said survey.

Sec. 4. No application to purchase land under this act shall be approved by the surveyor general until the expiration of ninety days from the filing thereof in his office, and meanwhile the land shall be subject to the adverse claim of any actual settler who has resided thereon when the said application was filed.

Sec. 5. The swamp and overflowed lands designated in this act shall be sold and patented at the same price and on the same terms and manner of payment as at present provided for swamp and overflowed lands. All moneys received for said swamp and overflowed lands shall be paid into the swamp-land fund of the county in which the lands are situated, and shall be treated and disposed of in the manner as moneys arising from the sale of segregated swamp and overflowed lands. If any of the lands are suitable for cultivation without reclamation, such lands shall be sold only to actual settlers in tracts not exceeding three hundred and twenty acres. Lands uncovered by the recession or drainage of the waters of inland lakes shall be sold at two dollars and fifty cents per acre, upon the same terms of payment as for swamp and overflowed land. All moneys derived from the sale of such uncovered lands shall be paid into the school fund of the county where the land lies.

Sec. 6. Any of the lands designated in this act which by reason of periodical overflow, need and are susceptible of reclamation may be reclaimed by the formation of districts in the same manner and subject to all of the provisions of law regulating the reclamation of swamp and overflowed lands; provided, that the board of supervisors of the county in which the lands, or the greater part thereof, are situated must first determine, upon proper petition presented therefor, by the holders of the title, or evidence of title, representing one-half or more of any body of such land, that such reclamation is necessary and feasible.

Sec. 7. When land has been sold under this act, no contest shall be maintained against the purchaser on the ground that the land is not of the

character stated in the application, unless it is shown that it is not of the character recited in section one of this act.

Sec. 8. All uncanceled certificates of purchase and patents heretofore issued and payments heretofore made for any lands as swamp and overflowed lands which lands belong to any of the classes described in section one of this act, whether or not such lands were segregated or sectionized, shall, for all purposes, be valid and shall have the same force and effect as if such lands had been at all times subject to sale as swamp and overflowed lands; provided, however, that any and all contests now existing between settlers and holders of certificates of purchase shall not be affected by the provisions of this act.

Sec. 9. All plats of any of the lands described in section one of this act which have been heretofore made under authority of the United States surveyor general, and which plats designate the same as swamp and overflowed lands, shall be deemed valid and effectual as surveys of such lands from and after the date thereof.

Sec. 10. This act shall take effect from and after its passage.

An act to abolish the state board of tide land commissioners, and to repeal sections three hundred and sixty-five and six hundred and ninety-eight of the Political Code.

[Approved February 4, 1876; amendments 1875-6, 15.]

Section 1. The state board of tide land commissioners is hereby abolished.

Sec. 2. All books, maps, papers, and documents belonging to the archives of said board, and all other property of the state under its custody or control, must be deposited with and kept and preserved by the surveyor general of the state.

Sec. 3. Sections 365 and 698 of the Political Code are hereby repealed.

Sec. 4. An act entitled "An act supplementary to and amendatory of 'An act supplementary to

and amendatory of an act entitled An act to survey and dispose of certain salt-marsh and tide lands belonging to the state of California," approved March 30, 1868, also an act approved April 1, 1870, approved March 30, 1874, is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its passage.

Compare in connection with section 4 of this act section 3488 of Political Code as amended in 1891.

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## TITLE 281.

### TAXATION.

The state revenue laws up to 1865 were carefully collated in the General Laws, sec. 6148 et seq., and the several acts passed between 1864 and 1871 given in the Supplement, sec. 9255 et seq. Since then various acts have been passed, which are important as affecting vested rights.

These acts are collected in Deering's Annotated Penal Code, p. 712 et seq.

An act to establish a tax on collateral inheritances, bequests, and devises, to provide for its collection, and to direct the disposition of the proceeds.

[Approved March 23, 1893; Stats. 1893, p. 193.]

Section 1. After the passage of this act, all property which shall pass, by will or by the intestate laws of this state, from any person who may die seized or possessed of the same while a resident of this state, or if such decedent was not a resident of this state at the time of death, which property, or any part thereof, shall be within this state, or any interest therein or income therefrom, which shall be transferred by deed, grant, sale, or gift, made in contemplation of the death of the grantor or bargainor,

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or intended to take effect in possession or enjoyment after such death, to any person or persons, or to any body politic or corporate, in trust or otherwise, or by reason whereof any person or body politic or corporate shall become beneficially entitled, in possession or expectancy, to any property, or to the income thereof, other than to or for the use of his or her father, mother, husband, wife, lawful issue, brother, sister, and niece or nephew when a resident of this state, the wife or widow of a son, or the husband of a daughter, or any child or children adopted as such in conformity with the laws of the state of California, and any lineal descendant of such decedent born in lawful wedlock, or the societies, corporations, and institutions now exempted by law from taxation, or to any public corporation, or to any society, corporation, institution, or association of persons engaged in or devoted to any charitable, benevolent, educational, public, or other like work (pecuniary profit not being its object or purpose), or to any person, society, corporation, institution, or association of persons in trust for or to be devoted to any charitable, benevolent, educational, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled, in possession or expectancy, to any such property, or to the income thereof, shall be and is subject to a tax of five dollars on every hundred dollars of the market value of such property, and at a proportionate rate for any less amount, to be paid to the treasurer of the proper county, as hereinafter defined, for the use of the state; and all administrators, executors, and trustees shall be liable for any and all such taxes until the same shall have been paid, as hereinafter directed; provided, that an estate which may be valued at a less sum than five hundred dollars shall not be subject to such duty or tax. [Amendment approved March 9, 1897; Stats. 1897, chap. lxxxiii. In effect immediately.]

Sec. 2. The exemptions contained in this act shall apply to all property which has passed, by will, succession, or transfer, since the approval of the act of which this act is amendatory, except

in those cases where the tax has been paid to the treasurer of the proper county. [Amendment approved March 9, 1897; Stats. 1897, ch. lxxxiii. In effect immediately.]

Sec. 2. When any grant, gift, legacy, or succession upon which a tax is imposed by section one of this act shall be an estate, income, or interest for a term of years, or for life, or determinable upon any future or contingent event, or shall be a remainder, reversion, or other expectancy, real or personal, the entire property or fund by which such estate, income, or interest is supported, or of which it is a part, shall be appraised immediately after the death of the decedent, and the market value thereof determined, in the manner provided in section eleven of this act, and the tax prescribed by this act shall be immediately due and payable to the treasurer of the proper county, and, together with the interest thereon, shall be and remain a lien on said property until the same is paid; provided, that the person or persons, or body politic or corporate, beneficially interested in the property chargeable with said tax, may elect not to pay the same until they shall come into the actual possession or enjoyment of such property, and in that case such person or persons, or body politic or corporate, shall execute a bond to the people of the state of California, in a penalty of twice the amount of the tax arising upon personal estate, with such sureties as the said superior court may approve, conditioned for the payment of said tax, and interest thereon, at such time or period as they or their representatives may come into the actual possession or enjoyment of such property, which bond shall be filed in the office of the county clerk of the proper county, provided further, that such person shall make a full and verified return of such property to said court, and file the same in the office of the county clerk within one year from the death of the decedent, and within that period enter into such security, and renew the same every five years. [Amendment approved March 9, 1895; Stats. 1895, chap. xxviii. In effect immediately.]

Sec. 3. Whenever a decedent appoints or names one or more executors or trustees, and makes a

bequest or devise of property to them in lieu of commissions or allowances, which otherwise would be liable to said tax, or appoints them his residuary legatees, and said bequest, devises, or residuary legacies exceed what would be a reasonable compensation for their services, such excess shall be liable to said tax; and the superior court in which the probate proceedings are pending shall fix the compensation.

Sec. 4. All taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the death of the decedent, and if the same are paid within eighteen months no interest shall be charged and collected thereon, but if not so paid, interest at the rate of ten per centum per annum shall be charged and collected from the time said tax accrued; provided, that if said tax is paid within six months from the accruing thereof a discount of five per centum shall be allowed and deducted from said tax. And in all cases where the executors, administrators, or trustees do not pay such tax within eighteen months from the death of the decedent, they shall be required to give a bond, in the form and to the effect prescribed in section two of this act, for the payment of said tax, together with interest.

Sec. 5. The penalty of ten per centum per annum imposed by section four hereof for the non-payment of said tax shall not be charged in cases where, by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the estate of any decedent, or a part thereof, cannot be settled at the end of eighteen months from the death of the decedent; and in such cases only seven per centum per annum shall be charged upon the said tax from the expiration of said eighteen months until the cause of such delay is removed.

Sec. 6. Any administrator, executor, or trustee having in charge or trust any legacy or property for distribution, subject to the said tax, shall deduct the tax therefrom, or if the legacy or property be not money he shall collect the tax thereon, upon the market value thereof, from the legatee or person entitled to such property, and he shall not deliver, or be compelled to deliver, any specif-



ic legacy or property subject to tax to any person until he shall have collected the tax thereon; and whenever any such legacy shall be charged upon or payable out of real estate, the executor, administrator, or trustee shall collect said tax from the distributee thereof, and the same shall remain a charge on such real estate until paid; if, however, such legacy be given in money to any person for a limited period, the executor, administrator, or trustee shall retain the tax upon the whole amount; but if it be not in money he shall make application to the superior court to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require. [Amendment approved March 9, 1895; Stats. 1895, chap. xxviii. In effect immediately.]

Sec. 7. All executors, administrators, and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax, in the same manner as they may be enabled by law to do for the payment of debts of the estate, and the amount of said tax shall be paid as hereinafter directed.

Sec. 8. Every sum of money retained by an executor, administrator, or trustee, or paid into his hands, for any tax on property, shall be paid by him, within thirty days thereafter, to the treasurer of the county in which the probate proceedings are pending; and the said treasurer shall give, and every executor, administrator, or trustee shall take, duplicate receipts for such payment, one of which receipts said executor, administrator, or trustee shall immediately send to the controller of the state, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof, and said controller shall seal said receipt with the seal of his office, and countersign the same, and return it to the executor, administrator, or trustee, whereupon it shall be a proper voucher in the settlement of his accounts; and an executor, administrator, or trustee shall not be entitled to credits in his accounts, nor be discharged from liability for such tax, nor shall said estate be distributed, unless he shall produce a receipt so sealed and countersigned by the controller, or a copy thereof certified by him.

Sec. 9. Whenever any debts shall be proven against the estate of a decedent after the payment of legacies or distribution of property from which the said tax has been deducted or upon which it has been paid, and a refund is made by the legatee, devisee, heir, or next of kin, a proportion of the tax so deducted or paid shall be repaid to him by the executor, administrator, or trustee, if the said tax has not been paid to the county treasurer or to the state controller, or by them, if it has been so paid.

Sec. 10. Whenever any foreign executor or administrator shall assign or transfer any stocks or loans in this state standing in the name of a decedent, or held in trust for a decedent, which shall be liable to the said tax, such tax shall be paid to the treasurer of the proper county on the transfer thereof; otherwise the corporation permitting such transfer shall become liable to pay such tax; provided, that such corporation had knowledge before such transfer that said stocks or loans are liable to said tax.

Sec. 11. When the value of any inheritance, devise, bequest, or other interest subject to the payment of said tax is uncertain, the superior court in which the probate proceedings are pending, on the application of any interested party, or upon his own motion, shall appoint some competent person as appraiser, as often as and whenever occasion may require, whose duty it shall be forthwith to give such notice, by mail, to all persons known to have or claim an interest in such property, and to such persons as the court may by order direct, of the time and place at which he will appraise such property, and at such time and place to appraise the same and make a report thereof, in writing, to said court, together with such other facts in relation thereto as said court may by order require to be filed with the clerk of said court; and from this report the said court shall, by order, forthwith assess and fix the market value of all inheritances, devises, bequests, or other interests, and the tax to which the same is liable, and shall immediately cause notice thereof to be given, by mail, to all parties known to be interested therein; and the value of every future

or contingent or limited estate, income, or interest shall, for the purposes of this act, be determined by the rule, method, and standards of mortality and of value that are set forth in the actuaries' combined experience tables of mortality for ascertaining the value of policies of life insurance and annuities, and for the determination of the liabilities of life insurance companies, save that the rate of interest to be assessed in computing the present value of all future interests and contingencies shall be five per centum per annum; and the insurance commissioner shall, on the application of said court, determine the value of such future or contingent or limited estate, income or interest, upon the facts contained in such report, and certify the same to the court, and his certificate shall be conclusive evidence that the method of computation adopted therein is correct. The said appraiser shall be paid by the county treasurer out of any funds that he may have in his hands on account of said tax, on the certificate of the court, at the rate of five dollars per day for every day actually and necessarily employed in said appraisement, together with his actual and necessary traveling expenses. [Amendment approved March 9, 1895: Stats. 1895, chap. xxviii. In effect immediately.]

Sec. 12. Any appraiser appointed by virtue of this act who shall take any fee or reward from any executor, administrator, trustee, legatee, next of kin, or heir of any decedent, or from any other person liable to pay said tax, or any portion thereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred and fifty dollars nor more than five hundred dollars, or imprisoned in the county jail ninety days, or both, and in addition thereto the court shall dismiss him from such service.

Sec. 13. The superior court in the county in which is situate the real property of a decedent who was not a resident of the state, or in the county of which the decedent was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this act, and the

court first acquiring jurisdiction hereunder shall retain the same, to the exclusion of every other.

Sec. 14. If it shall appear to the superior court, or judge thereof, that any tax accruing under this act has not been paid according to law, it shall issue a citation, citing the persons known to own any interest in or part of the property liable to the tax to appear before the court on a day certain, not more than ten weeks after the date of such citation, and show cause why said tax should not be paid. The service of such citation, and the time, manner, and proof thereof, and the hearing and determination thereon, and the enforcement of the determination or decree shall conform to the provisions of chapter twelve of title eleven of part three of the Code of Civil Procedure; and the clerk of the court shall, upon the request of the district attorney or treasurer of the county, furnish, without fee, one or more transcripts of such decree, and the same shall be docketed and filed by the county clerk of any county in the state, without fee, in the same manner and with the same effect as provided by section six hundred and seventy-four of said Code of Civil Procedure for filing a transcript of an original docket.

Sec. 15. Whenever the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the persons interested in the property liable to said tax to pay the same, he shall notify the district attorney of the proper county, in writing of such failure to pay such tax, and the district attorney so notified, if he have probable cause to believe a tax is due and unpaid, shall prosecute the proceeding in the superior court, as provided in section fourteen of this act, for the enforcement and collection of such tax. [Amendment approved March 9, 1895; Stats. 1895, chap. xxviii. In effect immediately.]

Sec. 16. The county clerk of each county shall, every three months, make a statement, in writing, to the county treasurer, of the property from which, or the party from whom, he has reason to believe a tax under this act is due and unpaid.

Sec. 17. Whenever the superior court of any

county shall certify that there was probable cause for issuing a citation, and taking the proceedings specified in section fifteen of this act, the state treasurer shall pay, or allow, to the treasurer of any county, all expenses incurred for services of citation, and his other lawful disbursements that have not otherwise been paid. [Amendment approved March 9, 1895; Stats. 1895, chap. xxviii. In effect immediately.]

Sec. 18. The county clerk of each county shall keep a book in which he shall enter the values of inheritances, devises, bequests, and other interests subject to the payment of said tax, and the tax assessed thereon, and the amounts of any receipts for payments thereon filed with him, which books shall be kept by him as public records. [Amendment approved March 9, 1895; Stats. 1895, chap. xxviii. In effect immediately.]

Sec. 19. The treasurer of each county shall collect and pay the state treasurer all taxes that may be due and payable under this act, who shall give him a receipt therefor, of which collection and payment he shall make a report, under oath, to the controller, between the first and fifteenth days of May and December of each year, stating for what estate paid, and in such form and containing such particulars as the controller may prescribe; and for all such taxes collected by him and not paid to the state treasurer by the first day of June and January of each year he shall pay interest at the rate of ten per centum per annum.

Sec. 20. The treasurer of each county shall be allowed to retain, on all taxes paid and accounted for by him each year, under this act, in addition to his salary or fees now allowed by law, five per centum on the first fifty thousand dollars so paid and accounted for by him, three per centum on the next fifty thousand dollars so paid and accounted for by him, and one per centum on all additional sums so paid and accounted for by him.

Sec. 21. Any person, or body politic or corporate, shall, upon payment of the sum of fifty cents, be entitled to a receipt from the county treasurer of any county, or a copy of the receipt, at his option, that may have been given by said

treasurer for the payment of any tax under this act, to be sealed with the seal of his office, which receipt shall designate on what real property, if any, of which any decedent may have died seized said tax has been paid, and by whom paid, and whether or not it is in full of said tax; and said receipt may be recorded in the clerk's office in the county in which said property is situate, in a book to be kept by said clerk for such purpose, which shall be labeled "Collateral Tax."

Sec. 22. All taxes levied and collected under this act shall be paid into the treasury of the state, for the uses of the state school fund.

Sec. 23. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

An act to repeal an act entitled "An act imposing a tax on the issue of certificates of stock corporations," approved April 1, 1878.

[Approved March 31, 1897, p. 243.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. An act entitled an act imposing a tax on the issue of certificates of stock of stock corporations, approved April one, eighteen hundred and seventy-eight, is hereby repealed.

Sec. 2. This act shall take effect from and after its passage.



An act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state of California, except municipal corporations of the first class, and to provide for the consolidation and abolition of certain municipal offices, and to provide that their duties may be performed by certain officers of the county, and fixing the compensation to be allowed for such county officers for the services so rendered to such municipal corporations.

[Stat. approved March 27, 1895; Stats. 1895, chap. clxxxii.]

Section 1. The board of trustees, common council, or other legislative body of any municipal corporation or city in this state, except municipal corporations of the first class, shall have power, and it shall be their duty to fix by ordinance the amount of money necessary to be raised by taxation upon the taxable property therein, as a revenue to carry on the various departments of such municipal corporation or city for the current year, not to exceed the limit fixed by law, and to pay the bonded or other indebtedness of such municipal corporation or city. The board of trustees, common council, or other legislative body, shall meet for such purpose, and shall so ascertain and fix said amount, on the first Monday in August of each year; provided, however, that the provisions of this act shall not apply to or be in force in any city or municipal corporation until its board of trustees, common council, or other legislative body, shall have passed an ordinance electing to avail itself of the provisions of this act, and filed a certified copy of the same with the auditor of the county in which such municipal corporation or city is situated, on or before the first Monday in February of each year; and thereafter all assessments shall be made and taxes collected by the assessor and tax collector of such county until such city or municipal corporation shall, by ordinance, elect not to avail itself of the provisions of this act for any longer time.

Gen. Laws—101.

Sec. 2. The board of trustees, common council, or other legislative body of any municipal corporation or city in this state, except municipal corporations of the first class, shall have power to elect that the duties of the city treasurer of such city or municipal corporation shall be performed by the county treasurer of the county in which such city or municipal corporation is situated; and whenever such board of trustees, common council, or other legislative body shall, by ordinance, so determine, such duties shall be performed by the treasurer of the county in which such city or municipal corporation is situated. A certified copy of such ordinance shall be served on the tax collector and treasurer of such county, and such ordinance shall also prescribe the manner in which money shall be drawn out of the various funds belonging to such city or municipal corporation in the hands of the treasurer.

Sec. 3. The county auditor must, on or before the second Monday in August of each year, transmit to the board of trustees, common council, or other legislative body of such municipal corporation or city within such county, a statement, in writing, showing the total value of all property within each municipal corporation or city, respectively, which value shall be ascertained from the assessment books of such county for such year, as equalized and corrected by the board of supervisors of such county.

Sec. 4. Each board of trustees, common council, or other legislative body of such municipal corporation or city shall, on the first Monday in September, fix the rate of taxes, designated in the number of cents upon each hundred dollars, using as a basis the value of the property as assessed by the county assessor, and so returned to such board by the county auditor, as required by section two of this act, which rate of taxation shall be sufficient to raise the amount so fixed by such board, as required in section one of this act, which acts by said board are declared to be a valid assessment of such property and a valid levy of such rates so fixed. Such municipal or city board must immediately thereafter transmit to the county auditor of the county in which such muni-

cipal corporation or city is situated a statement of such rate so fixed by such municipal board.

Sec. 5. The auditor must then compute and enter in a separate column in the assessment book, to be headed "City Tax, City of —" (naming it), the respective sums in dollars and cents to be paid as a municipal or city tax on the property therein enumerated and assessed as being in any municipal corporation or city, using the rate of levy so fixed by such municipal board, and the assessed value as found in such assessment book. Such taxes so levied shall be collected at the same time and in the same manner as state and county taxes; and when collected the net amount as ascertained by sections six and seven of this act shall be paid to the treasurer of the municipal corporation or city to which it respectively belongs, under the general requirements and penalties provided by law for the settlement of other taxes; provided, however, that when such city has by ordinance, a certified copy of which has been served upon the tax collector of such county, elected to avail itself of the provisions of section two of this act, then such tax collector shall pay the money belonging to such city or municipal corporation over to the treasurer of the county in which such city or municipal corporation is situated.

Sec. 6. The board of supervisors, on the filing of itemized statements by the county auditor and county tax collector, showing the additional expense to their offices of assessing and collecting these local taxes, may, by an order spread upon the minutes, deduct such expenses from the taxes of such municipal corporation or city, while in the hands of the county tax collector, and cover the same into the county salary fund; provided, that not more than one per cent shall be charged for collecting the first twenty-five thousand dollars so collected, and one-fourth of one per cent for all sums over that amount.

Sec. 7. Whenever the board of trustees, common council, or other legislative body of any municipal corporation or city in this state has elected to avail itself of the provisions of section two of this act, the board of supervisors of such county shall also reserve as and for the expenses of the

county treasurer, incurred by reason of the imposing of these duties upon him, the sum of one-fourth of one per cent, which sum shall be deducted from the money collected by the county tax collector, and covered in to the county treasurer into the county salary fund.

Sec. 8. Whenever the board of trustees, common council, or other legislative body of any municipal corporation or city in this state shall have availed itself of the provisions of this act, all duties, other than the assessing of the property of such city or municipal corporation, belonging to the office of the city assessor shall be transferred to and performed by the clerk of such city or municipal corporation; and all duties, other than the collection of taxes, belonging to the office of city tax collector shall be transferred to and be performed by the city marshal or chief of police of such city or municipal corporation, and thereafter the office of city assessor, and city tax collector, and city treasurer may be by ordinance abolished.

Sec. 9. Whenever any real property situate in any city or municipal corporation which has availed itself of the provisions of this act has been sold for taxes and has been redeemed, the money paid for such redemption shall be apportioned by the county treasurer to such city or municipal corporation in the proportion which the tax due to such city or municipal corporation bears to the total tax for which such real property was sold.

Sec. 10. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 11. This act shall take effect immediately.

*Repealed*

An act to provide for the levy and collection of taxes by and for the use of municipal corporations and cities incorporated under the laws of the state, excepting municipal corporations of the first, second, third, and fourth classes, and cities operating under a charter framed under section eight, article eleven, of the constitution.

[Approved March 2, 1891; Stats. 1891 p. 22.]

Section 1. The board of trustees, common council, or other legislative body of any municipal corporation or city in this state, excepting municipal corporations of the first, second, third, and fourth classes, and cities operating under a charter framed under section eight, article eleven, of the constitution, shall have power and it shall be their duty to fix, by ordinance, the amount of money necessary to be raised by taxation upon the taxable property therein, as a revenue to carry on the various departments of such corporation or city for the current year, not to exceed the limit fixed by law, and to pay the bonded or other indebtedness of such municipal corporation or city. The board of trustees, common council, or other legislative body shall meet for such purpose, and shall so ascertain and fix said amount, on the first Monday in August of each year; provided, however, that the provisions of this act shall not apply to or be in force in any city or municipal corporation until its board of trustees, common council, or other legislative body shall have passed an ordinance electing to avail itself of the provisions of this act, and filed a certified copy of the same with the auditor of the county in which such municipal corporation or city is situated, on or before the first Monday in March of each year.

Sec. 2. The county auditor must, on or before the third Monday in August of each year, transmit to the board of trustees, common council, or other legislative body of each municipal corporation or city within such county a statement, in writing, showing the total value of all property within each municipal corporation or city, re-

spectively, which value shall be ascertained from the assessment-book of such county for such year as equalized and corrected by the board of supervisors for such county.

Sec. 3. Each board of trustees, common council, or other legislative body of such municipal corporation or city shall, on the first Monday of October, fix the rate of taxes, designating the number of cents upon each hundred dollars, using as a basis the value of property as assessed by the county assessor and so returned to such board by the county auditor, as required in section two of this act, which rate of taxation shall be sufficient to raise the amount so fixed by such board, as required in section one of this act, which acts by said board are declared to be a valid assessment of such property and a valid levy of such rates so fixed. Such municipal or city board must immediately thereafter transmit to the county auditor of the county in which such municipal corporation or city is situated a statement of such rate so fixed by such municipal board.

Sec. 4. The auditor must then compute and enter in a separate column in the assessment-book, to be headed "City Tax, City of —" (naming it), the respective sums, in dollars and cents, to be paid as a municipal or city tax on the property therein enumerated and assessed as being in any municipal corporation or city, using the rate of levy so fixed by such municipal board and the assessed value as found in such assessment-book; such taxes so levied shall be collected at the same time and in the same manner as state and county taxes; and when collected the net amount as ascertained by section five shall be paid to the treasurer of the municipal corporation or city to which it respectively belongs, under the general requirements and penalties provided by law for the settlement of other taxes.

Sec. 5. The board of supervisors, on the filing of itemized statements by the county auditor and county tax collector showing the additional expense to their offices of assessing and collecting these local taxes, may, by an order spread upon its minutes, deduct such expenses from the taxes of each municipal corporation or city, while in the



hands of the county tax collector, and cover the same into the county salary fund.

Sec. 6. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

*Revised 3649*  
An act in relation to reassessment of property, the equalization of the same, and the collection of taxes thereon, in cases where a former assessment made since eighteen hundred and seventy-nine is illegal or invalid, or where the proceedings for the collection of such taxes have been ineffectual by reason of error, irregularity, or invalidity, and such taxes have not been paid.

[Approved March 23, 1893; Stats. 1893, p. 290.]

Section 1. Every assessment of property made after the year one thousand eight hundred and seventy-nine which is invalid, or may hereafter be adjudged to be, by reason of any illegality, invalidity, or irregularity declared or existing, in the assessment of such property, or in the mode provided for the assessment thereof, shall be remade, and the property reassessed and equalized for each year for which such assessment is invalid as aforesaid, and for the year for which the assessment of such property was invalid as aforesaid, and such reassessment and equalization shall be made by the same officers and boards at the same time or times, as are now prescribed by law for the assessment and equalization of property, of the same classes or kinds as the property which hereby is required to be reassessed. The assessment and equalized assessment of such property shall be entered on the several assessment rolls or books in the same manner that assessments of such property are or were required by law to be entered for the year or years during which such reassessments shall be made. And there is hereby levied for state purposes the same rates of taxation for each of such respective years as were heretofore levied upon such property for each of said years for said state purposes.

Sec. 2. All taxes for counties, cities and coun-

ties, and other taxing districts, shall be levied by the proper board or boards upon the property mentioned in the first section of this act, at the same rates for each respective year as were levied upon property for each of said years after the year eighteen hundred and seventy-nine.

Sec. 3. All property authorized to be reassessed by this act shall be reassessed and equalized by the proper officers and boards at the value to which and to the person or corporation to whom or to which such property ought, for each of such years, to have been assessed, under such rules of notice and at the times and in the modes as are prescribed for the assessment and equalization of like classes of property; and the assessment and equalization thereof, and the levy and collection of taxes thereunder, shall be made by the proper officers at the time, upon like notice and in the manner now or hereafter provided by law for making assessments and equalizing the same and for the levy and collection of taxes on like classes of property; and if the taxes so relieved shall become delinquent, there shall be added thereto and the amount thereof the same percentage, as a penalty for such delinquency, as is added to other delinquent taxes on like classes of property, and such delinquent taxes and penalties added thereto shall be collected by the proper officers in the manner now or hereafter provided by law for the collection of delinquent taxes and penalties upon like classes of property; the collectors of such taxes to allow as credits thereon all payments heretofore made on the tax as first levied.

Sec. 4. There shall be no limitation or limitations as to the time in which actions for the collections of taxes levied under this act may be commenced, and all the provisions of law now or hereafter provided in respect to assessments, equalization, levy, and collection of taxes shall, where applicable, apply to reassessments, equalization, and relieves and collections of taxes made under the provisions of this act.

Sec. 5. This act shall apply to taxes for revenue only, and not to assessments for local improvements or street purposes.

Sec. 6. This act shall take effect and be in force on and after its passage.

*Report*

An act authorizing the payment of compensation or commission to persons employed by the state controller and attorney-general, or by boards of supervisors of the different counties, to collect delinquent state and county taxes, and legalizing all payments made for that purpose.

[Stat. approved March 26, 1895; Stats. 1895. chap. cv.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. That all sums heretofore paid by the state to any person for compensation or commission to persons for collecting delinquent state and county taxes in pursuance of an agreement by such persons with the state controller and attorney-general for such collections, and all sums heretofore paid by any board of supervisors out of the county treasury as compensation or commissions for collecting such delinquent taxes in pursuance of an agreement by such persons with such boards of supervisors, are hereby approved and legalized.

Sec. 2. This act shall take effect and be in force from and after its passage.

An act to abolish commissions or fees paid by the state for the assessment, equalization, auditing, and collection of ad valorem taxes.

[Approved February 23, 1893; Stats. 1893. p. 5.]

Section 1. All commissions or fees paid by the state to the officers of any county or city and county for services rendered in the assessment, equalization, auditing, and collection of ad valorem taxes are hereby abolished; provided, that this shall not affect the commissions paid to the assessors of the several counties for services rendered in the collection of personal property taxes, as provided by chapter eight of the Political Code, or the mileage allowed to the treasurer of the several counties or cities and counties in making settlements with the state, as provided by section

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three thousand eight hundred and seventy-six of the Political Code.

Sec. 2. All acts or parts of acts in conflict with this act are hereby repealed.

Sec. 3. This act shall take effect from and after the first Monday in May, eighteen hundred and ninety-three.

An act to repeal an act of the legislature of the state of California entitled "An act in relation to the assessment and collection of taxes upon personal property in the city and county of San Francisco," approved March 18, 1874, and requiring all counties and cities and counties of this state to conform to the requirements of the provisions of the Political Code in relation to the assessment, equalization, levy, and collection of taxes for revenue purposes.

[Stat. approved March 28, 1895; Stats. 1895, chap. ccxvii.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

Section 1. An act entitled "An act in relation to the assessment and collection of taxes upon personal property in the city and county of San Francisco," approved March eighteenth, eighteen hundred and seventy-four, is hereby repealed.

Sec. 2. All counties and cities and counties of this state are hereby required to conform to the provisions of the Political Code in relation to the assessment, equalization, levy and collection of taxes on real and personal property for revenue purposes, and all laws now in force in relation to revenue are hereby made applicable to all such counties and cities and counties.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 4. This act shall take effect immediately.

An act concerning the assessment of animals.

[Approved March 30, 1872; 1871-2, 754.]

Assessment of animals temporarily pasturing in any county.

Section 1. Whenever any person residing in any county of the state, and owning any neat cattle, horses, mules, sheep, or goats therein, shall drive the same from the county where he resides into any other county, for the purpose of temporarily pasturing the same, all such animals shall be assessed in and for the county where such owner resides, although the said animals shall not be at the time of said assessment in said county in which he may so permanently reside; and such owner shall include such animals in his assessment list, and the assessor of the county where such stock are so temporarily grazed shall list the same, with a full description of each kind and the number of the same; and for the purpose of making such list, the assessor shall have power, and it is hereby made his duty, to examine on oath the person or persons owning or having charge of such cattle, horses, mules, sheep, or goats, touching their number, ownership, and to whom and in what county, if any, they have been assessed for taxation. The list made out as aforesaid by the assessor, together with a full statement of the same, shall be signed and sworn to by the person or persons owning or having in charge such stock.

#### Duties of assessors and treasurers.

Sec. 2. The assessor shall file a copy of said list of such stock with the county treasurer of his county, and another copy with the treasurer of the county in which the said stock was first listed and assessed for taxation. Upon filing the lists aforesaid, with the sworn statement therein that the stock specified in said lists has been pastured or used in the county mentioned therein during the grazing season, with the treasurer of the county in which it was assessed for taxation, said treasurer shall pay, on the order of the treasurer of the county in which the stock was so pastured or used, one-half of the amount of taxes paid in on the said stock, less the cost of collection.

Sec. 3. All acts or parts of acts in conflict with this act, so far as they are in conflict with this act, are hereby repealed.

Sec. 4. This act shall take effect from and after its passage.

An act to regulate the assessment of migratory herds or bands of livestock, and to provide for an equitable distribution of the taxes derived therefrom.

[Approved March 16, 1874; 1873-4, 376.]

### Assessment of migratory stock.

Section 1. Whenever the assessor assesses any livestock, he must demand of the person who gives him a list thereof a statement under oath, showing: first, whether such stock, or any part thereof, will, during the year for which such assessment is being made, be moved to another county for pasturage, and if such removal is to be made; second, the county to which such stock will be taken; and third, the number, kind, and value thereof; provided, that should such person, at the time of assessment, not have determined to remove such stock, and afterwards should make such removal, it shall be lawful for him to make the statement to the assessor of the county from which such stock was removed, as in this section provided, through the United States mail.

[Statement need not be made unless the assessor demand it: *People v. Shippee*, 53 Cal. 675.]

### Duty of assessor.

Sec. 2. The assessor must fully note on his assessment roll, immediately below the description of the property listed to such person: first, the number and kind of stock to be removed; second, the name of the county to which such stock is to be removed; and third, the assessed value of such stock; and within ten days after making the assessment, he must transmit, by mail, to the county treasurer of the county to which such stock is to be taken, a copy of the statement provided for in section one of this act; and the treasurer must enter the same in a book to be kept by him for that purpose, which book shall be known as the assessment roll of migratory stock, and shall be open for inspection.

### Collector's account.

Sec. 3. The collector must keep a separate account of all taxes collected upon the property mentioned in this act, which account must in-



clude the names of the persons, description of the property, and the counties to which such stock has been driven, and at the time of his settlement, file such account with the treasurer of his county; and the treasurer must enter the same in a book to be kept by him for that purpose.

#### Treasurer's duty.

Sec. 4. The treasurer receiving moneys so collected must set apart one-half of the sum collected for county purposes, for the use, respectively, of the different counties to which the stock has been sent for pasturage.

#### Demand.

Sec. 5. On the first Monday of February in each year the treasurer of each county to which any list provided for in section one has been sent, must make out a demand against the county from which the list came, for one-half of the tax assessed for county purposes, against the property on said list, and must transmit the same to the county treasurer of the county from which the list came, who must pay over to the treasurer making the demand all moneys received in the county treasury, to the use of the county from which the demand came, and which had not been before paid over, accompanied with a duplicate of the statement filed by the tax collector.

#### How made.

Sec. 6. The demand and payment provided for in the preceding section may be made through any regularly organized express company.

#### Mark "paid."

Sec. 7. The treasurer receiving money and statement, as provided in the preceding section, must pay the same into the county treasury, and must mark the word "paid" on the assessment roll opposite the name and description of property corresponding with the name and description of property included in such statement.

#### Examinations by assessor.

Sec. 8. The assessor must make examinations of the property listed in said roll, and must ascertain whether any livestock not on such roll has been sent or brought into his county for pastur-

age, and if he finds any such, must assess it at its full cash value; and in that case the fact that the same property has been assessed in another county for the same year, and that the taxes have been paid in such county, shall be no defense to any proceeding to recover the taxes assessed in the county in which such stock is found, unless it be proved that such person has complied with the provisions of section one of this act, and that the assessor has failed to make the return thereof.

**Penalty for failure to make statements.**

Sec. 9. Any person who drives, or causes to be driven, any live-stock to another county for pasturage, and fails to make the statement provided for in section one, or who willfully fails to include in such statement the full number or value of stock so sent or driven, shall be liable to a penalty of five hundred dollars, to be recovered in the district court of the county to which said stock is sent or driven; and such suit must be instituted by the district attorney of said county in the name of the people of the state of California, upon the information of any responsible person, and one-half of the penalty recovered must be paid to the person on whose information the suit was instituted.

**Misdemeanor.**

Sec. 10. Any officer who shall fail, neglect, or refuse to perform the duties required of him by this act shall be guilty of a misdemeanor, and upon conviction shall be fined a sum of not less than fifty nor more than five hundred dollars.

**Print and transmit.**

Sec. 11. The state board of equalization must, immediately after the passage of this act, have it printed, and transmit twenty copies thereof to each assessor in the state.

Sec. 12. This act shall take effect from and after its passage.

The above act was declared unconstitutional and void in *People v. Townsend*, 56 Cal. 633.

An act supplementary to the foregoing act of March sixteenth, eighteen hundred and seventy-four.

[Approved April 1, 1876; 1875-6, 797.]

Apportionment of assessments.

Section 1. County treasurers to whom a list is sent from the county of Calaveras, under the provisions of the above-mentioned act, shall make out a demand against the treasurer of the county of Calaveras for such a portion of one-half of the tax assessed and collected for county purposes as would have been assessed and collected at the rate of taxation in the county making the demand, had the property been assessed therein.

Sec. 2. This act shall be in full force from and after its passage.

An act in relation to moneys belonging to the state derived from taxes assessed on mortgages.

[Approved March 30, 1872; 1871-2, 762.]

Disposition of moneys.

Section 1. All moneys belonging to the state now in the hands of tax collectors, which were received as taxes on promissory notes secured by mortgage assessed and collected in the years eighteen hundred and seventy and eighteen hundred and seventy-one, and all moneys that may be derived from taxes now delinquent, which were assessed on promissory notes secured by mortgage in the years eighteen hundred and seventy and eighteen hundred and seventy-one, are hereby directed to be retained for the use of the several counties which levied such taxes. The tax collectors of the several counties in which such property was assessed are authorized and required to pay over all such moneys to the county treasurer in the same manner as other taxes are paid.

General fund.

Sec. 2. All moneys which by this act are remitted to the several counties in which such assessments were made shall be placed to the credit of of the general fund.

Sec. 3. All laws and parts of laws inconsistent with this act are hereby repealed.

Sec. 4. This act shall be in force from and after its passage.

An act prescribing the form of complaint in actions to recover delinquent taxes, and to authorize the bringing of suits therefor.

[Approved April 23, 1880; 1880, 136 (Ban. ed. 402).]

Form of complaint in action for delinquent taxes.

Section 1. In any action that may be hereafter commenced in any county, or city and county, in this state, for the collection of delinquent taxes for any fiscal year, the complaint may be in the following form, and shall be legally sufficient, and on the trial thereof the duplicate assessment roll for any said fiscal year, of said county, or city or county, or a copy of any entry therein duly certified, showing unpaid taxes against the defendant, or in cases where the defendant is sued in a representative capacity against any person or estate he represents, shall be prima facie evidence of the plaintiff's right to recover:

(Title of court.) (Name of plaintiff) vs. (name of defendant.) Plaintiff avers that defendant is indebted to plaintiff in the sum of \$—— (naming the amount for county, or city and county), taxes, with five per cent penalty added thereto for the non-payment thereof, and interest thereon at the rate of two per cent per month from the (date), and fifty cents costs of advertising. Plaintiff further avers that defendant is indebted to plaintiff in the further sum of \$—— (naming amount), for state taxes, with five per cent penalty added thereto for the non-payment thereof, and interest thereon at the rate of two per cent per month from (date), and fifty cents costs of advertising, which said taxes were duly assessed and levied upon (the real or personal) property of said defendant, to-wit (describe property as assessed), for the fiscal year (naming the year). Wherefore, plaintiff prays judgment against said defendant, for said several sums, with interest and penalty as aforesaid, and costs of suit.

(Signature of attorney.)

And in any case where the defendant is sued in a representative capacity, such other further or additional allegations as may be necessary to charge him in such capacity; and it is further provided, that any county, or city and county, where such taxes are delinquent, may sue in its own name for the recovery of delinquent taxes, whether the same be for county, or city and county, and state purposes, or taxes, or either of them.

Sec. 2. This act shall take effect and be in force from and after its passage.

**An act to protect the county treasuries of certain counties.**

[Approved March 16, 1874; 1873-4, 393.]

This act provides that the assessors of certain counties should pay the salaries of deputies employed by them.

This act was probably repealed by the County Government Act.

An act approved March 27, 1874; Stats. 1873-4, p. 731, exempting firemen in Nevada, Placer, El Dorado, Alameda, and Siskiyou counties from the payment of poll tax was repealed by an act approved March 15, 1876; Stats. 1875-6, p. 287.

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## TITLE 282.

### TEHAMA COUNTY.

A reference to special and local laws affecting Tehama county is contained in Deering's Annotated Penal Code, pp. 722, 723.

See, in addition to those enumerated, an act to amend certain sections of the act incorporating Red Bluff, approved March 17, 1891; Stats. 1891,

## TITLE 283.

## TELEGRAPH COMPANIES.

Act granting franchise for line between Asia and America: See Stats. 1871-2, 97.

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## TITLE 284.

## THEATERS.

An act making it unlawful to refuse admission to places of amusement.

[Approved March 23, 1893; Stats. 1893, p. 220.]

Section 1. It shall be unlawful for any corporation, person, or association, or the proprietor, lessee, or the agents of either, of any opera-house, theater, melodeon, museum, circus, caravan, race-course, fair, or other place of public amusement or entertainment, to refuse admittance to any person over the age of twenty-one years who presents a ticket of admission acquired by purchase, and who demands admission to such place; provided, that any person under the influence of liquor, or who is guilty of boisterous conduct, or any person of lewd or immoral character, may be excluded from any such place of amusement.

Sec. 2. Any person who is refused admission to any place of amusement contrary to the provisions of this act is entitled to recover from the proprietor, lessee, or their agents, or from any person, association, corporation, or the directors thereof, his actual damages and one hundred dollars in addition thereto.

Sec. 3. This act shall take effect immediately.



## TITLE 285.

## THISTLE.

An act to prevent the propagation of the Scotch or Canada thistle in the counties of Humboldt, Siskiyou, Klamath, Del Norte, and Alameda.

[Approved March 2, 1872; 1871-2, 214.]

Consult Stats. 1871-2, p. 214, for the act.

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## TITLE 286.

## TIA JUANA SUFFERERS.

An act to appropriate the sum of five thousand dollars for the benefit of the sufferers from the Tia Juana flood of the twenty-second of February, 1891, and to provide for its payment to the board of supervisors of San Diego county and its distribution to the sufferers.

[Approved March 31, 1891; Stats. 1891, p. 450.]

The nature of the act appears from the title.

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## TITLE 287.

## TORRENS LAND SYSTEM.

An act to create a special commission for the purpose of examining and reporting to the thirty-first session of the legislature on the Torrens land transfer act of Australia, and making an appropriation therefor.

[Approved March 9, 1893; Stats. 1893, p. 121.]

Section 1. A special commission of five persons, four of whom shall be members of the legal profession, is hereby created for the purpose of examining the methods of land transfer and registration as existing under the Torrens land transfer act of Australia, and of preparing a system

for the state of California in accordance with said act; and of reporting the same, with an opinion thereon, to the thirty-first session of the legislature of the state of California.

Sec. 2. The members of such commission shall be appointed by the governor within twenty days after the passage of this act; and within ten days from such appointment said commissioners shall meet and organize themselves into a board, at the place in which the majority of said commissioners shall have their residences. The members of said commission shall receive no salary..

Sec. 3. The state printer shall print such reports as said commission may make.

Sec. 4. There is hereby appropriated the sum of five hundred dollars (\$500) out of any money in the state treasury not otherwise appropriated, for the contingent expenses of said commission, and the state controller shall draw a warrant on the state treasurer for such sum.

Sec. 5. This act shall take effect immediately.

An Act for the certification of land titles and the simplification of the transfer of real estate.

[Stat. approved March 17, 1897; Stats. 1897, chap. ex.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

County Recorders Ex Officio Registrars.

Section 1. Recorders to be registrars.

Section 1. Recorders and ex officio recorders in the several counties of this state shall be registrars of titles in their respective counties, and their deputies shall be deputy registrars. All laws relative to recorders and their deputies, including their compensation, clerk hire, and expenses, shall extend to registrars and their deputies, so far as the same may be applicable, except as in this act otherwise provided. Registrars of titles shall be county officers within the meaning of the laws of this state.

Section 2. Bonds of Recorders to cover their duties as registrars.

Sec. 2. The official bonds now required by law to be given by recorders and ex officio recorders

before entering upon the discharge of their duties, shall also apply to and cover the faithful discharge of their duties as registrars, whether such additional condition be specifically provided for in such bonds or not.

Section 3. Deputies may act.

Sec. 3. Deputies may perform any and all duties of the registrar, in the name of the registrar, and the acts of such deputies shall be held to be the acts of the registrar.

Section 4. Registrar and deputy not to practice law.

Sec. 4. Registrars and deputy registrars are prohibited from practicing law, or acting as attorneys or counselors at law, or having as a partner a lawyer or any one who acts as such, or from acting as searchers of title under this act.

Bringing Land under the Act.

Section 5. Application by verified petition; character of applicant; county of application.

Sec. 5. Land may be brought under the operation of this act by the filing with the county clerk of a verified petition to the superior court of the county within which such land is situated, by the owner of any estate or interest in such land, whether legal or equitable (other than an undivided share, or an easement). The clerk shall immediately indorse on such application the exact time of its presentation, and enter the same in a book kept for that purpose and known as the Land Register Docket. Persons who collectively claim to hold the entire legal estate in fee simple may jointly file such petition. A corporation may apply by its authorized agent, an infant by his guardian; any other person under disability by his guardian or trustee. Land constituting a single parcel and lying partly in two or more counties may be included in one application, which may be made in either county in which the land lies, but the certificate issued therefor must be filed with the registrars of all the counties within which such land is situate. Two or more parcels of land may be included in one application if owned by the same person and in the same right.

Section 6. Contents of application.

Sec. 6. The petition shall set forth substantially:

(a) The name, occupation, place of residence, and post-office address of the applicant, and if the application is by one acting in behalf of another, the name, place of residence, post-office address, and capacity of the person so acting, and the nature of the disability of the person for whom he is acting.

(b) Whether the applicant (except in case of a corporation) is married or not, and, if married, the name and residence of the husband or wife.

(c) The description of the land.

(d) The applicant's estate or interest in the same, and whether the same is subject to an estate of homestead.

(e) Whether the land is occupied or unoccupied, and, if occupied, the name and post-office address of each occupant, and what estate or interest he has or claims in the land.

(f) Whether the land is subject to any easement, lien, or incumbrance, and, if any, the name and post-office address if known of each holder thereof, and the nature and amount of the same, and, if recorded, the book and page of the record.

(g) Whether any other person has any estate or claims any interest in the land, in law or equity, in possession, remainder, reversion, or expectancy, and, if any, the name and post-office address if known of every such person, and the nature of his estate or claim.

(h) The names and post-office addresses of all the owners of the adjoining lands, so far as he is able, upon diligent inquiry, to ascertain the same.

(i) If the applicant is a male, that he is of the full age of twenty-one years; if a female, that she is of the full age of eighteen years. If the application is made by a corporation, its name, when and where incorporated, its principal place of business, and the names and post-office addresses of its president and secretary. If the application is by a husband or wife, and the property is community property, the petition must so state, and both spouses must join therein. A plat or plan of survey of the land made by the county or a licensed surveyor must accompany the application, and if said land is a part of a city, town, or subdivision, the application must refer to the book and page of the records of the county where the map of said city, town, or subdivision is recorded, if at all.

Each application must be accompanied by an abstract of the title, verified by the searcher making the same, as required in proceedings in partition, or, if made by a corporation engaged in the business of making and certifying abstracts of title, then in lieu of the affidavit a certificate by such corporation, under its seal, shall be sufficient. When the title to the land in question has been previously determined by a final decree of a court of competent jurisdiction, such abstracts need not antedate such decree unless required by the court in which such application is filed. No person or corporation shall be authorized to make or furnish such abstracts of title until after entering into an undertaking with two or more sufficient sureties to the people of the state of California in a sum not less than ten thousand dollars, which may be increased from time to time by order of the court. Such bonds shall be recorded in the record of official bonds in the recorder's office of the county and then filed in the county clerk's office. Said bond shall be conditioned to pay all damages and costs which the state may sustain by reason of any error or insufficiency in said abstract. The sureties on such bond shall qualify as provided in section ten hundred and fifty-seven of the Code of Civil Procedure, and the sufficiency of the bond and of the sureties thereon shall be approved by a judge of the superior court of the county where such bond is to be filed. The sureties upon such bond may become severally liable in portions of not less than five hundred dollars each, making in the aggregate at least two sureties for the whole sum. Said bond shall be renewed as often, at least, as once in every period of three years.

Section 7. Registration of fee simple must precede all else.

Sec. 7. No mortgage, lien, charge, or lesser estate than a fee simple shall be registered unless the fee simple to the same land is first registered.

Section 8. Registration not to be refused because of incumbrance.

Sec. 8. It shall not be an objection to bringing land under this act, that the estate or interest of the applicant is subject to any outstanding lesser estate, mortgage, lien, or charge; but every such

lesser estate, mortgage, lien, or charge shall be noted upon the certificate of title and the duplicate thereof, and the title or interest certified shall be subject only to such estates, mortgages, liens, and charges as are so noted, except as herein provided.

Section 9. No registration based on tax title until after five years adverse possession.

Sec. 9. No title derived through sale for any tax or assessment shall be entitled to be first registered, unless it shall appear to the satisfaction of the court, upon the hearing of the application, that the applicant, or those through whom he claims title, have been in the open, actual, continuous, uninterrupted, undisputed, exclusive, and adverse possession of the land under such title at least five years, and have paid all taxes and assessments legally levied thereon for five successive years.

Section 10. Amendment to application verified.

Sec. 10. The application may be amended only by petition verified as in the case of the original. Such amendment may be ordered by the court on its own motion, or upon the motion of any person interested in the proceeding.

Section 11. Filing of application to be notice to subsequent purchasers.

Sec. 11. The filing of the application in the office of the county clerk shall be sufficient notice of the same to all subsequent purchasers or incumbrancers without the filing of a *lis pendens* in the office of the recorder.

Section 12. Court to dismiss application, or set it for hearing.

Sec. 12. The court shall, in its discretion, examine the abstract itself, or refer the same, as provided in section eighteen of this act. If it shall appear to the court, from an examination of the abstract, or from the report of the referee, that the title to the land described in the application is substantially as alleged by the applicant, the application shall be set for hearing, otherwise the court may order the application dismissed.



Section 13. Notice of hearing to be given; any one may appear and object; costs.

Sec. 13. When the time and place for hearing the application is fixed by the court, notice thereof shall be given to all parties interested, as shown by the petition and the abstract or referee's report, and to the husband or wife of the applicant, if married, and the owners of adjoining lands, in the same manner as the service of a summons in a civil action, and by publication for at least four weeks, in some newspaper of general circulation, to be designated by the court; provided, that no copy of abstract or map need be served with the petition. Any person interested may appear and object to the granting of the application, and if such objection is sustained, the costs of the same shall be paid by the applicant; if not, by the person so objecting. The time for appearance after service shall be the same as in the case of a civil action.

Section 14. Upon the hearing the court to take evidence on the allegations of petition; and may adjourn hearing.

Sec. 14. Upon the day set for the hearing of the application, or at such time as the same may be continued to, the court shall cause examination to be made into the applicant's title to the land in question, and shall hear testimony as to the allegations of the petition, or of any objections thereto; and if any defects are found in the application, or in the applicant's title to the land, or if any of the allegations of the petition are found to be untrue, or any objections to said petition are sustained, the court may dismiss such application, or may give the applicant such further time as the court may deem reasonable, before finally passing upon his application.

Section 15. Decree setting forth title to be made by court on granting application.

Sec. 15. If it shall be made to appear, to the satisfaction of the court, that the notice required by section thirteen has been duly given and served; that the facts stated in the application are true, and that the applicant is the owner of the land, or interested therein, as set forth in the petition, the court shall duly make, give and enter a decree to that effect, which said decree shall contain an ac-

curate description of the property in question, with a diagram thereof, and also shall set forth all liens and incumbrances on said land, with the name of the holder thereof, and the nature, amount, and order of the same, and, if recorded, the book and page of the record. Any party aggrieved by such decree may appeal therefrom in the manner now or hereafter provided by law for appeals in civil actions.

Section 16. Registrar to issue certificate of title upon filing of certified copy of decree.

Sec. 16. A certified copy of such decree shall be filed in the office of the registrar, who shall thereupon issue a certificate of title to the person entitled thereto as shown by said decree, and shall proceed to bring said land under the operation of this act, as herein provided. Said certificate shall contain the description of the property set forth in the decree, and shall also show the nature, amount, and order of the liens thereon.

Section 17. Decree to be in rem, and conclusive.

Sec. 17. The decree of the court ordering registration shall be in the nature of a decree in rem, and shall be final and conclusive as against the rights of every and all persons, known and unknown, to assert any estate, interest, claim, lien, or demand of any nature or kind whatever, against the land so ordered registered, except as provided in this act.

Section 18. Court to appoint referee; compensation of searcher and of referee.

Sec. 18. Upon the filing of the petition the court may appoint a referee to examine and report upon the abstract accompanying the same. Such referee shall be an attorney in good standing, skilled in the examination of titles, of not less than three years' practice at the bar of the court so appointing him. The compensation of the searcher and of the referee shall be fixed by the court, or agreed upon between themselves and the applicant, and shall be paid by the applicant as a part of the costs of the proceeding.

Section 19. Written opinion of referee to be filed before decree made.

Sec. 19. Whenever such abstract shall be made and such referee appointed, no decree shall be entered by the court until the written opinion of such referee shall be filed in the proceeding, show-

ing the nature of the applicant's title to the land; and if the same is subject to any lesser estate, mortgage, lien, or charge, particularly specifying the same and the priority thereof. The estate of homestead shall be included in the term "lesser estate."

Section 20. Applicant may withdraw application upon payment of fees at any time prior to issuance of certificate of title.

Sec. 20. Any applicant may, upon payment of all fees due, withdraw his application for registration at any time prior to the issuing of a certificate of title; and upon the written request of such applicant and the order of the court, the clerk shall return to the applicant all abstracts of title, deeds, and other instruments, except depositions or affidavits deposited by him for the purpose of supporting his application.

Section 21. On transfer of interest or death of applicant, proceedings may be continued.

Sec. 21. In case of the death or any disability of the applicant, the court, on motion, may allow the proceeding to be continued by or against his representative or successor in interest. In case of any other transfer of interest the proceeding may be continued in the name of the original applicant, or the court may allow the person to whom the transfer is made to be substituted in the proceeding.

Section 22. Registrar to keep record of particulars of issuance.

Sec. 22. The registrar shall immediately, upon the registration of any land, make an entry in a book kept by him for that purpose, showing the name of the person to whom the certificate was issued, its number, the day, hour, and minute of its issuance, the name of the person to whom the duplicate certificate was delivered, and the book and page where the original certificate is entered or recorded.

Section 23. Certificate of title to be in duplicate: its contents: original to be retained by registrar.

Sec. 23. Every first and subsequent certificate of title shall be in duplicate and numbered consecutively and bear date the year, month, day, hour, and minute of its issue, and be under the

hand and official seal of the registrar, one copy of which shall be retained by the registrar and be known as the original, and the other shall be delivered to the owner, or person acting for him, and be known as the duplicate. It shall state whether the owner, except in the case of a corporation, executor, administrator, assignee, or other trustee, is married or not married, and the name of the husband or wife. If the owner is a minor it shall state his age; if under any other disability, the nature of the disability. If issued to an executor or administrator, the certificate shall show the name of the deceased testator or intestate; if to an assignee in insolvency, the name of the insolvent. The registrar shall note at the end of the certificate, original and duplicate, in such manner as to show and preserve their priorities, the particulars of all estates, mortgages, liens, incumbrances, and charges to which the owner's title is subject.

#### Section 24. Form of certificate.

Sec. 24. No particular form of certificate of title is required, but the same may be, subject to such changes as the case may require, substantially in the following form:

State of California, \_\_\_\_\_ }  
County of \_\_\_\_\_ } ss.

A. B. (state occupation and residence, giving street and number). State of California (if an administrator, give the name of the deceased; if a minor, give his age; if under other disability, state its nature), married to (name of husband or wife, or if not married so state), is the owner of an estate in fee simple (or as the case may be) in the following land (insert description contained in the decree). Subject, however, to the estates, easements, liens, incumbrances, and charges hereunder noted. (In case of trust, condition, or limitation, say "in trust," or "upon condition," or "with limitation," as the case may be.)

1. Mortgage to C. D. for the sum of \$—, dated —, payable — after date, with interest at — per cent per — interest payable —.

2. Mechanic's lien in favor of X. Y. for \$—, filed —.

3. Assessment for improvement of — Street. Amount \$—, due —.

(Any other incumbrances or charges.)

In witness whereof, I have hereunto set my hand and caused my official seal to be affixed, this — day of —.

Registrar of Titles in and for the County of —, State of California.

[Seal.]

Section 25. Tenants in common may receive each a certificate.

Sec. 25. In all cases where two or more persons are entitled as tenants in common to an estate in registered land, such persons may receive one certificate for the entirety, or each may receive a separate certificate for his undivided share.

Section 26. Registered owner may consolidate several or divide up one certificate.

Sec. 26. Upon the application of any registered owner of land held under separate certificates of title, or under one certificate, and delivering up of such certificate or certificates of title, the registrar may issue to such owner a single certificate of title for the whole of such land, or several certificates, each containing a portion of such land, in accordance with such application, and as far as the same may be done consistently with any regulations at the time being in force, respecting the certificates of land that may be included in one certificate of title; and upon issuing any such certificate of title said registrar shall indorse on the last previous certificate of title of such land so delivered up a memorial, setting forth the occasion of such cancellation and referring to the volume and folium of the new certificate or certificates of title so issued.

Section 27. Certificate may be issued by order of court in lieu of lost duplicate; proceedings therefor.

Sec. 27. In the event of a duplicate certificate of title being lost, mislaid, or destroyed, the owner may apply to the court for an order upon the registrar to issue a certified copy of the original certificate of registration. Upon the hearing of such application, the court may order such notice to be given to such persons, and for such time as it may deem proper. If the court is satisfied that the applicant is the person named in the original

certificate on file in the registrar's office, and that the duplicate certificate has been lost, mislaid, or destroyed, the court shall make an order directing the registrar to issue a certified copy of the original certificate to the applicant. A certified copy of such order shall be filed in the registrar's office, who shall thereupon issue to such applicant a certified copy of the original certificate, with the memorials and notations appearing upon the register, and shall note upon the register the fact, cause, and date of such issue, and shall also mark upon such certified copy: "Owner's certified copy, issued in place of lost (mislaid, or destroyed, as the case may be) certificate," and such certified copy shall stand in the place of, and have like effect, as the missing duplicate certificate. In case of a lost certificate, no transfer of the land shall be made until such certified copy is issued by the registrar. A certified copy of the certificate of title may be issued by the registrar for use as evidence, upon the receipt by him of an order therefor made by the court; provided, that such certified copy shall have written or stamped across the face thereof the words "for use as evidence only." The issuance of such certified copy and the purpose thereof shall also be noted upon the original certificate by the registrar.

Section 28. Change of name or of description to be noted on order of court.

Sec. 28. If an owner's name or description is incorrectly registered, or becomes changed (e. g. by marriage, adoption, divorce, etc.), the court, upon the filing of an application and proof of facts in the manner set forth in section twenty-seven of this act, and the production by the owner of the duplicate certificate, shall order the registrar to issue a new certificate, with such changes as the case may require.

### The Register of Titles.

Section 29. Original certificate to be entered in register; memorials to be on latest certificate.

Sec. 29. The registrar shall keep a book, to be known as the "Register of Titles," wherein he shall enter all original certificates of title, in the



order of their numbers, with appropriate blanks for the entry of memorials and notations allowed by this act. Each certificate, with such blanks, shall constitute a separate folium of such book. All memorials and notations that may be entered upon the register under the terms of this act shall be entered upon the folium constituted by the last certificate of title of the land to which they relate. Each certificate of title shall be numbered the same as the folium of the register on which the registration of the title of which it is a duplicate, is entered.

Section 30. Receipt to be given for duplicate certificate on its issuance.

Sec. 30. Before the delivery of any duplicate certificate of title, a receipt for it shall be required to be signed by the owner. Where such receipt is signed in the presence of the registrar or a deputy, it shall be witnessed by such officer. If signed elsewhere, it shall be acknowledged before any officer authorized to take acknowledgments of deeds.

Section 31. First registration deemed complete on notation of original entries upon certificates.

Sec. 31. In every case of first registration of land or an estate of interest therein, the same shall be deemed to be registered under this act, when the registrar shall have marked upon the certificate of title, in duplicate, the volume and folium of the register in which the original may be found.

Section 32. Transfer complete on notation upon new certificate; other dealings complete on notation; registration to relate back to filing with registrar.

Sec. 32. Every transfer of registered land shall be deemed to be registered under this act, when the new certificate to the transferee shall have been marked, as in the case of the first registration; and all other dealings shall be considered as registered when the memorial or notation shall have been entered in the register upon the folium constituted by the existing certificate of title of the land. But, for the protection of the transferee or person claiming through any transfer or deal-

ing, the registration shall relate back to the time of filing in the registrar's office the deed, instrument, or notice, pursuant to which the transfer memorial or notation is made.

Section 33. Party aggrieved may bring action against registrar and others.

Sec. 33. Any person feeling himself aggrieved by the action of the registrar, or by his refusal to act in any matter pertaining to the first registration of land, or any subsequent transfer, or charge upon the same, or failing, or neglecting, or refusing to file any instrument, or to enter or cancel any memorial or notation, or to do any other thing required of him by this act, may file a complaint in the superior court making the registrar and other persons, whose interests may be affected, parties defendant, and the court may proceed therein as in other cases, and make such order or decree as shall be according to equity and the purport of this act. A certified copy of such order or decree shall be presented to the registrar, who shall file the same and make such entry thereof as by this act required.

#### Effect of Registration.

Section 34. In absence of fraud, title to be subject only to noted incumbrances; exceptions.

Sec. 34. The registered owner of any estate or interest in land brought under this act shall, except in case of fraud to which he is a party, or of the person through whom he claims without valuable consideration paid in good faith, hold the same subject only to such estates, mortgages, liens, charges, and interests as may be noted in the last certificate of title in the registrar's office, and free from all others, except:

1. Any subsisting lease or agreement for a lease for a period not exceeding one year, where there is actual occupation of the land under lease. The term "lease" shall include a verbal letting.

2. All public highways embraced in the description of the lands included in the certificate.

3. Any subsisting right of way or other easement, however created, upon, over, or in respect of the land.

4. Any tax or special assessment for which a

sale of the land has not been had at the date of the certificate of title.

5. Such right of action or claim as is allowed by this act.

6. Liens, claims, or rights arising under the laws of the United States, which the statutes of California cannot require to appear of record upon the register.

Section 35. No adverse possession after registration possible.

Sec. 35. After land has been registered no title thereto adverse or in derogation to the title of the registered owner shall be acquired by any length of possession.

Section 36. Presumption of good faith in purchaser of registered land.

Sec. 36. Except in case of fraud, and except as herein otherwise provided, no person taking a transfer of registered land, or any estate or interest therein, or of any charge upon the same from the registered owner, shall be held to inquire into the circumstances under which, or the consideration for which, such owner or any previous registered owner was registered, or be affected with notice, actual or constructive, of any unregistered trust, lien, claim, demand, or interest; and the knowledge that any unregistered trust, lien, claim, demand, or interest is in existence shall not of itself be imputed as fraud.

Section 37. Persons defrauded shall not lose rights.

Sec. 37. In case of fraud, any person defrauded shall have all rights and remedies that he would have had if the land were not under the provisions of this act; provided, that nothing contained in this section shall affect the title of a registered owner who has taken bona fide for a valuable consideration, or of any person bona fide claiming through or under him.

Section 38. Registration of forged instrument void but title of bona fide owner not affected.

Sec. 38. If a deed or other instrument is registered, which is forged, or executed by a person under legal disability, such registration shall be void; provided, that the title of a registered owner, who has taken bona fide for a valuable

consideration, shall not be affected by reason of his claiming title through some one, the registration of whose right or interest was void, as provided in this section.

Section 39. No unregistered interest shall prevail against bona fide registered owner.

Sec. 39. No unregistered estate, interest, power right, claim, contract, or trust shall prevail against the title of a registered owner taking bona fide for valuable consideration, or of any person bona fide claiming through or under him.

Section 40. In absence of fraud, certificate of title is conclusive evidence in suit for specific performance of contract to purchase.

Sec. 40. In any suit for specific performance brought by a registered owner of any land under the provisions of this act against a person who may have contracted to purchase such land, not having notice of any fraud or other circumstances which, according to the provisions of this act would affect the right of the vendor, the certificate of title of such registered owner shall be held in every court to be conclusive evidence that such registered owner has a good and valid title to the land, and for the estate or interest therein mentioned or described.

Section 41. In ejectment or partition suits, certificate is conclusive evidence.

Sec. 41. In any action or proceeding brought for ejectment, partition, or possession of land, the certificate of title of a registered owner shall be held in every court to be conclusive evidence, except as herein otherwise provided, that such registered owner has a good and valid title to the land, and for the estate or interest therein mentioned or described, and that such registered owner is entitled to the possession of said land.

Section 42. The register to be received as evidence.

Sec. 42. The register of any land, and duly certified copies thereof, shall, except as herein otherwise provided, be received in law and in equity as evidence of the facts therein stated, and as conclusive evidence that the person named therein as owner is entitled to the land for the estate or interests therein specified.

Section 43. Memorial to be noted until cancellation.

Sec. 43. Whenever a memorial has been entered, as permitted by this act, the registrar shall carry the same forward upon all certificates of title until the same is canceled in some manner authorized by this act.

Section 44. Dealings subsequent to first registration subject to act.

Sec. 44. All dealings with land or any estate or interest therein, after the same has been brought under this act, and all liens, incumbrances, and charges upon the same subsequent to the first registration thereof, shall be deemed to be subject to the terms of this act, and to such amendments and alterations as may hereafter be made. The bringing of land under this act shall imply an agreement which shall run with the land, that the same shall be subject to the terms and provisions of the act and of amendments and alterations thereof.

Section 45. Five years' limitation to bringing of action affecting registered land; incompetents to appear.

Sec. 45. No person shall commence any action at law or in equity for the recovery of land, or assert any interest, right in, or lien or demand upon the same, or make entry thereon adversely to the title or interest certified in the first certificate bringing the land under the operation of this act, unless within five years after the first registration. It shall not be an exception to this rule that the person entitled to bring the action or make the entry is an infant, lunatic, or is under any disability, but action may be brought by such person by his next friend or guardian. It shall be the duty of the guardian, if there is any, to bring action in the name of his ward whenever it is necessary to preserve or enforce the ward's rights in registered land; provided, however, before such action shall proceed, it must be made to appear to the court that the person bringing such action, or those under whom he claims, had no actual notice of the proceedings to register such lands in time to appear and file his objections or assert his claim.

Section 46. Action not to affect bona fide purchasers.

Sec. 46. The action provided for in the last preceding section, shall in no way affect or disturb the rights of any person in said land, acquired subsequent to the registration thereof, bona fide and without knowledge, and for a valuable consideration.

Section 47. Claim to arise after expiration of five years preserved by noting memorial; proceedings subsequent.

Sec. 47. Any person having any interest, right, title, lien, or demand, whether vested, contingent, or inchoate, in, to, or upon registered, land which existed at the time the land was first registered, and upon or for which no cause of action shall have accrued at the date of the registration of the land, may, prior to the expiration of said five years after such registration, file in the registrar's office a notice, under oath, setting forth his interest, right, title, lien, or demand, and how and under whom derived, and the character and nature thereof; and if such claim is so filed, an action may be brought to assert or recover or enforce the same at any time within one year after the right of action shall have accrued thereon, or at any time within the period of five years after said first registration, and not afterwards. It shall be the duty of a life tenant or trustee to file such claim on behalf of any remainderman or reversioner, whether the remainder or reversion be at the time vested or contingent, and of a guardian to file such claim on behalf of his ward.

### Transfers.

Section 48. Title passes on filing of deed and of duplicate.

Sec. 48. A registered owner of land desiring to transfer his whole estate or interest therein, or some distinct part or parcel thereof, or some undivided interest therein, or to grant out of his estate an estate for life or for a term of not less than ten years, may execute to the intended transferee a deed or instrument of conveyance in any form authorized by law for that purpose. And upon filing such deed or other instrument in the registrar's office and surrendering to the registrar the dupli-



cate certificate of title, the transfer shall be complete and the title so transferred shall vest in the transferee; thereupon, the registrar shall issue in duplicate and register, as hereinbefore provided, a new certificate, certifying the title to the estate or interest in the land desired to be conveyed to be in the transferee, and shall note upon the original and duplicate certificate the date of the transfer, the name of the transferee, and the volume and folium in which the new certificate is registered, and shall stamp across the original and surrendered duplicate certificate the word "canceled," in whole or part, as the case may be.

Section 49. New certificate to issue for remainder, if but a parcel be transferred.

Sec. 49. When only a part of the land described in a certificate is transferred, or some estate or interest in the land is to remain in the transferer, a new certificate shall be issued to him for the part, estate, or interest remaining in him.

Section 50. Time of filing to be noted on instrument.

Sec. 50. The registrar shall mark as filed every deed, mortgage, lease, and other instrument which may be filed in his office, in the order of its receipt, and shall note thereon at the date of filing the minute, hour, day, and year it is received. When the date of filing any instrument is required to be entered upon the register, it shall be the same as that indorsed upon such instrument.

Section 51. Papers filed to be retained.

Sec. 51. All instruments, notices, and papers required or permitted by this act to be filed in the office of the registrar, shall be retained and kept in such office, and shall not be taken therefrom except by a subpoena duces tecum issued to, and served upon the registrar by a court of record. But the registrar, on demand, the proper fee being tendered therefor, shall deliver to any person a copy or copies of such an instrument, with all memoranda, memorials, and indorsements thereon, duly certified under his hand and seal of office. The registrar shall, however, upon all such copies, indorse thereon in writing across the face thereof, in red ink, "copy, no rights conveyed hereby."

Section 52. Such copies to be received in evidence.

Sec. 52. Every copy of original instruments so certified as provided for in the last preceding section, shall be received in all cases in place of the original, and as evidence have the same force and effect as the original instrument.

Section 53. Existing forms of deeds may be used.

Sec. 53. Like forms of deeds, mortgages, leases, and other instruments as are now or may hereafter be sufficient in law for the purpose intended, may be used in dealing with registered land and any estate or interest therein. Such instrument shall give the number of the certificate of title of the land described therein. But an indorsement, duly acknowledged, upon the duplicate certificate of title, substantially in the following form, viz.: "I —, grant to — the real property described in this certificate. Witness — hand — and seal — this — day of —, —," shall be sufficient to transfer the property in said certificate described.

Section 54. Name and address to be indorsed on instrument, and notices to be sent there.

Sec. 54. On all instruments presented to the registrar for registration shall be indorsed the name and address of the person so presenting the same, and all notices relating to the land therein described may be served on such person at such address. The address may be changed from time to time by such person filing with the registrar a written notice of such change.

Section 55. Instrument affecting registered land to be but a contract until registered.

Sec. 55. A deed, mortgage, lease, or other instrument purporting to convey, transfer, mortgage, lease, charge, or otherwise deal with registered land, or any estate or interest therein, or charge upon the same, other than a will or a lease not exceeding one year where the land is in the actual possession of the lessee or his assigns, shall take effect only by way of contract between the parties thereto, and as authority to the registrar to register the transfer, mortgage, lease, charge, or other dealing upon compliance with the terms of this act. On the filing of such instrument, the

land, estate, interest, or charge shall become transferred, mortgaged, leased, charged, or dealt with according to the purport and terms of the deed, mortgage, lease, or other instrument. The registrar shall immediately, upon the filing of such instrument, stamp or write upon the original and duplicate certificates of title the word "transferred," "mortgaged," "leased," or otherwise, as the case may require, with the date of filing such instrument.

Section 56. Certificate before retransfer, etc., must show freedom from tax sale and homestead.

Sec. 56. No transfer of title to land, or any estate or interest therein, or mortgage, shall be registered, if the last original certificate shows that the land has been sold for any tax or assessment upon which a deed has been given, and that the title is outstanding, or upon which a deed may thereafter be given, or if said certificate shows that the estate of homestead, if any, has not been released or extinguished, unless the transfer or mortgage is intended to be subject to such tax sale or homestead estate, in which case it shall be so stated in the certificate of title.

Section 57. Certificate to state marriage or representative capacity, if any.

Sec. 57. Every certificate of title to land shall state whether the transferee (except when the latter is a corporation, executor, administrator, or assignee) is married or not married, and if married, the name of the husband or wife. If the transferee be an executor or administrator, the certificate shall give the name of the deceased testator or intestate, and if the transferee be an assignee, the name of the insolvent. The transferee shall furnish the registrar the necessary information before he shall be entitled to have the land transferred to him on the register.

### Mortgages, Leases, and Other Charges.

Section 58. Incumbrance on registered land must be registered.

Sec. 58. Every mortgage, lease, contract to sell, or other instrument intended to create a lien, incumbrance, or charge upon registered land, or

any interest therein, shall be deemed to be a charge thereon, and must be registered as hereinafter provided.

Section 59. Incumbrance created on filing of charge.

Sec. 59. On the filing of the instrument intended to create the charge in the registrar's office, and the production of the duplicate certificate of title, and it appearing from the original certificate of title that the person intending to create the charge has the title and right to create such charge, and the person in whose favor the same is sought to be created being entitled by the terms of this act to have the same registered, the registrar shall enter upon the proper folium of the register, and also upon the duplicate certificate, a memorial of the purport thereof, and the date of filing the instrument, with a reference thereto, by its file number, which memorial shall be signed by the registrar. The registrar shall also note upon the instrument on file the volume and folium of the register where the memorial is entered.

Section 60. Trust deed to be treated as a mortgage.

Sec. 60. A trust deed in the nature of a mortgage shall be deemed to be a mortgage, and be subject to the same rules as a mortgage.

Section 61. If instrument charging land be in duplicate or more parts, but one need be filed.

Sec. 61. When any mortgage, lease, or other instrument creating or dealing with a charge upon registered land or any estate or interest therein, is in duplicate, triplicate, or more parts, only one of the parts need be filed and kept in the registrar's office; but the registrar shall note upon the register whether the same is in duplicate, triplicate, or as the case may be, and shall also mark upon the others "mortgagee's duplicate," "lessor's duplicate," "lessee's duplicate," or as the case may be, and note upon the same the date of filing and the volume and folium of the register where the memorial is entered, and deliver them to the parties entitled thereto.

Section 62. Certified copies identified as such may be issued.

Sec. 62. When an instrument is not executed

in a sufficient number of parts for the convenience of the parties, the registrar may make and deliver to each of the parties entitled thereto certified copies of the instrument filed in his office, with the indorsements thereon, marking the same "mortgagee's certified copy," "lessor's certified copy," or as the case may be, and shall note upon the register the fact of issuing such copies. Such certified copies shall have the same force and effect and be treated as duplicates.

Section 63. Assignment of charge by filing and noting of same by memorial.

Sec. 63. The holder of any charge upon registered land, desiring to transfer the same or any part thereof, may execute an assignment of the whole or any part thereof. The assignment of a part only must state whether the part transferred is to be given priority, to be deferred, or to rank equally, with the remaining part. Upon such assignment being filed in the office of the registrar, and the production of the duplicate or certified copy of the instrument creating the charge held by the assignor, the registrar shall enter in the register opposite the charge, a memorial of such transfer, and how it ranks, with a reference to the assignment by its file number; he shall also note upon the instrument on file in his office intended to be transferred, and upon the duplicate or certified copy thereof produced, the volume and folium where the memorial is entered, with the date of the entry. The transferee shall be entitled to have a certified copy of the instrument of transfer, with the indorsement thereon, and in case of the transfer of the entire charge, the duplicate or certified copy of the instrument creating the charge.

Section 64. Release of part or whole of charge to be noted as an assignment.

Sec. 64. A release, discharge, or surrender of a charge, or any part thereof, or of any part of the land charged, may be effected in the same way as above provided in the case of a transfer. In case only a part of the charge or of the land is intended to be released, discharged, or surrendered, the entry shall be made accordingly; but when the whole is released, discharged, or surrendered at the same or several times, the registrar shall

stamp across the instrument on file, and the memorial thereof, and the duplicate or certified copy produced, the word "canceled."

Section 65. Charges to be enforced as at present, except as herein provided, and except that notice of *lis pendens* must be filed with registrar.

Sec. 65. All charges upon registered land, or any estate or interest in the same, may be enforced as now or hereafter allowed by law, and all laws with reference to the foreclosure and release or satisfaction of mortgages shall apply to mortgages upon registered land, or any estate or interest therein, except as herein otherwise provided, and except that until notice of the pendency of any suit to enforce or foreclose such charge is filed in the registrar's office, and a memorial thereof entered on the register, the pendency of such suit shall not be notice to the registrar, or any person dealing with the land or any charge thereon.

#### Attorneys in Fact.

Section 66. Attorney in fact to deal with registered land must file his power.

Sec. 66. Before any person can convey, charge, or otherwise deal with registered land, or any estate or interest therein, as attorney in fact for another, the deed or instrument empowering him so to act shall be filed with the registrar, and a memorial thereof entered upon the original and duplicate certificates. If the attorney shall so desire, the registrar shall deliver to him a certified copy of the power of attorney, with the indorsements thereon. Revocation of a power may be registered in like manner.

#### Trusts, Conditions, and Limitations.

Section 67. Trusts, etc., to be noted without any of the particulars.

Sec. 67. Whenever a deed or other instrument is filed in the registrar's office for the purpose of effecting a transfer of, or charge upon, registered lands, or any estate or interest therein, and it appears from such instrument that the transfer or charge is to be in trust, or upon any condition or limitation therein expressed, the registrar shall



note in the certificate, and the duplicate thereof, or memorial, the words "in trust," or "upon condition," or "with limitations," as the case may be, but no entry shall be made of the particulars of any such trust, conditions, or limitations.

Section 68. Every trustee with express authority, shall have power of sale.

Sec. 68. The trustee or transferee in any such instrument named, if the instrument contains the words "with power of sale," shall have power to deal with the land as the owner thereof; and a bona fide purchaser, mortgagee, or lessee is not bound to inquire into or determine whether or not the acts of such trustee are in accordance with the terms and conditions of the trust. When such power is conferred, the registrar shall note upon the certificate and duplicate thereof the words "with power of sale."

Section 69. No trustee, with limitation, shall sell without order of court to sell.

Sec. 69. If, however, such instrument does not contain the words "with power of sale," such trustee shall have no power to sell or otherwise deal with the land without an order of court so to do, duly given and made, a certified copy of which said order shall be filed with the registrar, and a memorial thereof entered upon the certificate of title, which shall be conclusive evidence as against all persons that the authority of such trustee was duly executed in accordance with the true intent and meaning of the trust, condition, or limitation.

Section 70. Trustee under will shall have power to sell unless it be withheld.

Sec. 70. A trustee under any will admitted to probate, unless such power shall have been expressly withheld by the terms of such will, shall have power to deal with any registered land held by him in trust as fully in every respect as if such lands belonged to him individually.

Estates in Probate, in Insolvency, and in Equity Proceedings.

Section 71. Existing statutes governing probate, insolvency, and equity proceedings, not affected.

Sec. 71. The distribution, transfer, leasing,

mortgaging, or other change in the status of the title of registered land that is within the jurisdiction of any court by reason of the pendency of probate, insolvency, or equity proceedings, shall be made under the same conditions and limitations as now or hereafter provided by the law of this state.

Section 72. Orders of sale, decrees of distribution, etc., to contain direction to registrar.

Sec. 72. The court in its order or decree making such distribution, transfer, leasing, mortgaging, or other change in the status of the title of registered land, shall direct the registrar to issue a certificate of title, or to note a memorial of the transaction, as the case may require, in accordance with such order or decree.

Section 73. Certified copy of order, decree, deed, and confirmation to be filed with registrar.

Sec. 73. The executor, administrator, assignee, receiver, or other person acting under the direction of said court, shall file with the registrar a certified copy of such order or decree, also the deed, lease, mortgage, or other instrument executed in accordance with such order or decree, and also a certified copy of the order or decree confirming such sale, lease, mortgage, or other transaction, when such confirmation is required by law.

Section 74. Order of court necessary for sale of land of insolvent and probate estates: confirmation and issuance of certificates thereof.

Sec. 74. Executors, administrators, and assignees in insolvency shall have no power of sale of lands registered in their names as such, without an order of court obtained for that purpose. Before any certificate can be issued to the purchaser, such sales shall be reported for confirmation to the court under whose authority such executor, administrator, or assignee is acting, and if confirmed a duly certified copy of the order of confirmation shall be filed in the office of the registrar, and a memorial thereof entered upon the certificate of title. Upon the filing of the certified copy of such order of confirmation and the entry of such memorial, the registrar shall issue a certificate to the purchaser at such sale, which certificate, in addition to the usual contents thereof,

shall refer to the said order of confirmation. Such order of confirmation shall be conclusive evidence that the sale was in all respects conducted in accordance with law, and the purchaser shall not be bound to inquire into the regularity of the proceeding, or power of the executor or administrator to make such sale.

Section 75. Power of sale of executor to be noted.

Sec. 75. If a testator, by his will, has provided that the executor thereof shall have a power of sale of real estate, the court shall direct the registrar to register the words "with power of sale," in respect of the land of the deceased, and such executor shall have power to sell such land without an order of court so to do, but such sales must be confirmed by the court in the manner now or hereafter provided by the law of this State, and a duly certified copy of the order of such confirmation shall be filed with the registrar before any certificate of title can be issued to the purchaser of such land.

Section 76. Registrar to issue certificate or note memorial, such to be conclusive.

Sec. 76. Thereupon the registrar shall issue the certificate of title, or note the memorial, as the case may require; and such certificate of title or memorial noted shall be conclusive evidence in favor of all persons thereafter dealing with said land.

### Tax Sales.

Section 77. Notice of purchase to be filed and mailed.

Sec. 77. A purchaser of registered land sold for any tax or assessment, shall, within one day after such purchase, file in the office of the registrar a written notice of such purchase. And thereupon the registrar shall enter a memorial thereof upon the certificate of title, and shall mail to each person named in the certificate, or in the memorials thereon, a copy of said notice, a sufficient number of said copies to be furnished to the registrar by said purchaser at the time of filing said notice. In case the State or a municipal corporation becomes the purchaser of land sold for any tax or assessment, the Tax Collector shall, within one day thereafter, file with the registrar a notice to

that effect. And thereupon the registrar shall enter a memorial thereof upon the register, and shall mail notices to interested parties, as in the case of an individual purchaser. Unless such notice is given as herein provided, the land shall be forever released from the effect of such sale, and no deed shall be issued in pursuance thereof.

Section 78. Tax deed already issued must be registered.

Sec. 78. A tax deed of registered land, or of any estate or interest therein, issued in pursuance of any sale for a tax or assessment made after the taking effect of this act, may be presented by the holder thereof to the registrar, who shall thereupon enter upon the register a memorial of such deed; but such deed, unless the same shall have been issued to the State, shall have only the effect of an agreement for the transfer of the title, and before any certificate of title shall be issued for the land described in such deed, the holder thereof must file with the Clerk of the Superior Court an application for a decree showing the title to said land to be vested in him.

Section 79. Interested persons must be made parties to said application.

Sec. 79. All persons appearing upon the register to be interested in said land, and also the person who appears, by the Tax Collector's books to have paid the tax or assessment last paid before the sale on which the deed is issued, shall be notified; and any person claiming an interest in the land may, upon the hearing of such application, show, as cause why a certificate of title should not issue to the holder of said deed, any fact that might be shown in law or in equity on his behalf to set aside such tax deed, and the applicant shall be required to show affirmatively that all the requirements of the statute to entitle him to a deed have been complied with.

Section 80. Decree shall be given showing condition of title.

Sec. 80. Such application shall be heard by the court, which shall render a decree showing the condition of the title to such land, and who is the owner thereof, and upon presentation to him, of a duly certified copy of such decree, the registrar

shall issue a certificate for said land in accordance with the terms and conditions of said decree.

Section 81. Tax deed to State conclusive.

Sec. 81. In case a tax deed of registered land is issued to the State or any municipal corporation, in pursuance of any sale for a tax or assessment made after the taking effect of this Act, the registrar shall, upon the filing of such deed in his office, cancel the certificate for the land in said deed described, and issue a new certificate to the State therefor.

Section 82. Notice to be personal or by mail and publication.

Sec. 82. The notice required in section eighty shall be given upon all persons residing in the State by personal service, and upon all persons living out of the State by mail and by publication in the manner now or hereafter required by the laws of this State in an action to quiet title. If such personal service be made by a Sheriff or Constable, his certificate, and if by any other person, his affidavit, shall be sufficient proof thereof. In case the place of residence of any person is not known to the registrar or the holder of such deed, notice shall be given by publication in a newspaper of general circulation in the county in which the land is situated, at least once a week for four consecutive weeks. Proof of such publication must be made in the manner now or hereafter required by the laws of this State.

Section 83. On redemption, memorial to be canceled.

Sec. 83. Upon presentation to him of a certificate of redemption from any tax sale, the registrar shall cancel the memorial of said sale upon the certificate of title.

#### Partition and Judicial Sales.

Section 84. All parties noted on register must be parties.

Sec. 84. In proceedings for partition of registered land, proof must be made that all persons, shown by the register of title to be interested in the land, have been made parties to such proceeding.

Section 85. Decree must be filed before certificate issued.

Sec. 85. On confirmation of the report of the commissioners setting off registered lands in proceedings for partition, it shall be the duty of the parties to whom the lands are allotted, to cause a certified copy of the judgment or decree to be filed with the registrar. Thereupon the registrar shall transfer the same upon the register, and issue certificates of title to the persons entitled thereto, as shown by said decree.

Section 86. When sale ordered, purchaser must file copy of decree.

Sec. 86. Whenever, in proceedings for partition of registered land, the court shall order a sale of such land, and the same is sold under such order, the purchaser shall file with the registrar a certified copy of the order confirming said sale, together with certificate of the officer holding the writ, that the terms of the sale have been complied with. Thereupon, the registrar shall transfer said land upon the register, and issue a certificate of title to the purchaser, therefor.

Section 87. When mortgage on undivided share, lien attaches only to lands set off to mortgagor.

Sec. 87. When a tenant in common has given any mortgage, or granted any other lien or interest upon his undivided interest, and the same is set off in severalty in proceedings for partition, such mortgage, lien, or other interest shall attach only to the lands so set off, and the registrar shall note the same upon a new register of title, and a new certificate of title, and shall indorse a memorandum of the partition upon the instrument creating such lien, mortgage, or other interest, if the same be on file in his office, before a new certificate of title shall be issued therefor.

Section 88. Purchaser at judicial sale must file certified copy of order confirming sale.

Sec. 88. Whenever registered land shall be sold to satisfy any judgment, decree, or order of court, the purchaser shall file with the registrar a duly certified copy of the order of sale, or of the order confirming such sale, when the same needs to be confirmed by the court, and also the certificate, if any, of the officer, that the terms of sale have



been complied with, and thereupon the registrar shall transfer the land to him, and issue a new certificate of title therefor to said purchaser.

### Lis Pendens; Notice of Action.

Section 89. Notice to affect registered land must be filed with registrar.

Sec. 89. No suit, bill, or proceeding at law or in equity for any purpose whatever, affecting registered land, or any estate or interest therein, or any charge upon the same, shall be deemed to be *lis pendens* or notice to any person dealing with the same until notice of the pendency of such suit, bill, or proceeding shall be filed with the registrar and a memorial thereof entered by him upon the register of the last certificate of the title to be affected; provided, however, this section shall not apply to attachment proceedings when the officer making the levy shall file his certificate as hereinafter provided.

Section 90. When suit, etc., dismissed, certificate of dismissal or release must be filed with registrar.

Sec. 90. When any suit, bill, or proceeding affecting registered lands has been dismissed or otherwise disposed of, or any judgment, decree, or order has been satisfied, released, reversed, or modified, or any levy of execution, attachment, or other process has been released, discharged, or otherwise disposed of, it shall be the duty of the Sheriff, or the clerk of the court in which such proceedings were pending, or had, as the case may be, forthwith, under his hand, and, if the clerk, under the seal of the court, to certify to and file with the registrar, an instrument showing such discharge or release. Upon the same being filed, the registrar shall enter a memorial of such discharge on the register. The costs of such certificate and memorial shall be taxed as other costs in the case.

### Liens, Executions, Attachments, etc.

Section 91. Certified copy of judgment or decree must be filed.

Sec. 91. No judgment, or decree, or order of any court shall be a lien on or in anywise affect registered land.  
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istered land, or any estate or interest therein, until a certified copy of such judgment, decree, or order, under the hand and official seal of the clerk of the court in which the same is of record, is filed in the office of the registrar, and a memorial of the same is entered upon the register of the last certificate of the title to be affected.

Section 92. Certificate of levy of attachment, or execution, must be filed.

Sec. 92. Whenever registered land is levied upon by virtue of any writ of attachment, execution, or other process, it shall be the duty of the officer making such levy forthwith to file with the registrar a certificate of the fact of such levy, a memorial of which shall be entered upon the register; and no lien shall arise by reason of such levy until the filing of such certificate and the entry in the register of such memorial, any notice thereof, actual or constructive, to the contrary notwithstanding.

Section 93. Notice of mechanics' liens must be filed.

Sec. 93. Notice of liens under the provisions of the mechanics' lien laws of this State shall be filed in the registrar's office, and a memorial thereof entered by him upon the register, as in the case of other charges, and such liens may be enforced as now or hereafter allowed by law. Until such notice is so filed and registered, no lien shall be deemed to have been created.

Section 94. Notice of assessments for street improvements, sewers, etc., must be filed by clerk.

Sec. 94. When in a city, town, or county, an ordinance, resolution, or order is passed or made, to lay out, establish, alter, widen, grade, regrade, relocate, or construct or repair a street, sidewalk, drain or sewer, or to make any other public improvement, or to do any work, the whole or a portion of the expense for which assessments may be made upon real estate, if any registered land or any land included in an application for registration then pending is affected by the Act or proceeding and liable to such assessment, the clerk of the board passing such ordinance, resolution, or order shall, within five days after the passage of

such ordinance, resolution, or order, file in the registrar's office a notice of the passage thereof, and a memorial shall thereupon be noted on the register. In case of the repeal of such ordinance, resolution, or order, the clerk of said board, and in case of the satisfaction of any lien thereunder, the Superintendent of Streets or other officer required by law to collect and receive such assessments, shall, within five days thereafter, notify the registrar, who shall thereupon cancel such memorial.

Section 95. No notice necessary in case of lien for labor performed for corporation not complying with law.

Sec. 95. No statutory or other lien shall be deemed to affect the title to registered land until after a memorial thereof is entered upon the register, as herein provided, except in cases of liens for labor performed for a corporation, as provided in the Act of the Legislature of the State of California, approved March thirty-first, eighteen hundred and ninety-one.

Section 96. Clerk of court may file certificate of dismissal of suit or satisfaction of judgment.

Sec. 96. The certificate of the clerk of the court in which any suit, bill, or proceeding shall have been pending, or any judgment or decree is of record, that such suit, bill, or proceeding has been dismissed or otherwise disposed of, or the judgment, decree, or order has been satisfied, released, reversed, or overruled, or of any Sheriff or other officer that the levy of any execution, attachment, or other process certified by him has been released, discharged, or otherwise disposed of, being filed in the registrar's office and noted upon the register, shall be sufficient to authorize the registrar to cancel or otherwise treat the memorial of such suit, bill, proceeding, judgment, decree, or levy, according to the purport of such certificate.

#### Corrections of Errors in Certificate.

Section 97. No correction of register without order of court.

Sec. 97. After a title has been registered and a certificate issued therefor, or after a memorandum, notation, or memorial has been made on the register of title and has been attested, no cor-

rection, alteration, or erasure shall be made therein or thereof, except in the manner herein provided.

Section 98. Registrar may apply to court for correction of errors or mistakes in certificate.

Sec. 98. Whenever it appears to the registrar that there is an error or omission in any certificate or memorial, or that any certificate or memorial has been made, entered, indorsed, issued, or canceled by mistake, he may apply to the court for an order summoning all persons registered as interested in the lands to which such certificate or memorial relates, to appear at an appointed time and place and produce their duplicate certificates and show cause why such omission or mistake should not be corrected, and shall thereupon enter a memorial of such application on the register.

Section 99. If all parties consent, court may order correction of errors or mistakes.

Sec. 99. If at the time and place appointed all such persons appear and consent, the court may order and direct the registrar to correct any such error, omission, or mistake on the register and on any duplicate certificate, and may direct the cancellation of any certificate or memorial entered by mistake.

Section 100. If all parties do not consent, court may hear testimony as to alleged error or mistake.

Sec. 100. If such persons, or any of them, fail to appear, or do not consent, the court may proceed to hear testimony as to such alleged error, omission, or mistake, and if it appear to the satisfaction of the court that an error, omission, or mistake has been made, he shall order and direct the registrar to correct the same and to cancel or modify such certificates or memorials as may be necessary to correct such error or mistake. When such error or mistake has been caused by the fault or neglect of the registrar, the costs of such proceedings shall be paid by the State; if by the fault of any person registered as interested in such land, by such person. A certified copy of the order of court, directing the correction of any error, omission, or mistake in respect to any certificate or memorial, shall be filed in the regis-

trar's office before such correction shall be entered or made.

### Eminent Domain.

Section 101. Right of eminent domain not affected.

Sec. 101. Nothing in this Act shall be construed to in anywise affect or modify the exercise of the right of eminent domain. When any suit or proceeding shall have been brought in the exercise of such right for the taking of registered land, or any interest therein, or to test the validity of any such taking, or to ascertain and establish the amount of damage by reason of any such taking, it shall be the duty of both parties to the proceeding to see that a certified copy of the judgment or decree therein is duly filed and a memorial thereof entered upon the register; but in the case of the assessment of damages, no such memorial shall be entered by the registrar until such damages have been paid, in which event the register shall also show the payment of such damages; provided, however, that the deposit with the treasurer, as allowed by law, of such damages, shall be deemed a payment thereof, and in such case the treasurer shall forthwith file with the registrar a certificate of such deposit, and thereupon a memorial thereof shall be entered upon the register. Upon the filing of the certified copy of the order or decree of the court and the payment of damages, the registrar shall note on the register of title of the owners whose lands have been appropriated, a description of the land so appropriated, and shall register in the name of the person, corporation, or other body entitled thereto, the title of the land taken, and issue a certificate therefor.

### Indices.

Section 102. Property indices to be kept.

Sec. 102. The registrar shall keep property indices, the pages of which shall be divided into columns, showing first, the section or subdivision; second, the range or block; third, the township or lot; fourth, any further description necessary to identify the land; fifth, the name of the registered owner; sixth, the volume; and seventh, the page of the register in which the lands are registered.

Section 103. Name indices to be kept.

Sec. 103. He shall also keep name indices, the

pages of which shall be divided into columns, showing in alphabetical order, first, the names of all registered owners and all other persons interested in or holding charges upon registered land; second, the nature of the interest; third, a brief description of the land; fourth, the volume; and fifth, the page of the register in which the lands are registered.

### Miscellaneous Provisions.

Section 104. Registered lands may be partitioned.

Sec. 104. An owner of an undivided interest in registered lands may bring an action for the partition thereof. A notice of such action shall, at the time of the commencement thereof, be filed with the registrar and a memorial entered by him upon the register. A certified copy of any judgment or decree rendered in pursuance of such action shall be filed with the registrar, who shall thereupon issue new certificates in accordance therewith.

Section 105. Registration of adverse lien not conclusive of regularity of proceedings or instruments by which created.

Sec. 105. Whenever, under the provisions of this Act, any interest in, or lien, incumbrance, or charge upon registered land, arises adversely to the registered owner without voluntary action by him, and not in pursuance of a judgment or decree of court, such registration shall not be conclusive of the regularity of any proceedings or instruments by means of which such interest, lien, incumbrance, or charge arose, or the validity of the same, and shall have no greater force and effect than would the recording, in case the land were not registered, of an instrument creating a similar interest, lien, incumbrance, or charge.

Section 106. In case of fraud, rights and remedies the same as if land not under this Act.

Sec. 106. In the case of fraud, any person defrauded shall have all rights and remedies that he would have had if the lands were not under the provisions of this Act; provided, that nothing contained in this section shall affect the title of a registered owner who has taken bona fide for a valuable consideration, or of any person bona fide claiming through or under him.



Section 107. Clerk of court shall notify registrar of appeal.

Sec. 107. In case of an appeal from any proceeding under this Act, or from any judgment, order, or decree affecting registered lands, the clerk of the court in which the notice of appeal is filed shall forthwith notify the registrar thereof, and thereupon the registrar shall enter upon the register a memorial of such appeal.

Section 108. All fees collected by registrar to be paid to County Treasurer and applied to expenses of administration of this Act.

Sec. 108. All fees collected by the registrar under the provisions of this Act shall be accounted for, paid, disbursed, and disposed of by him in the same manner that fees collected by him as County Recorder are now or may hereafter be by law accounted for, paid, disbursed, and disposed of. Should there be a surplus in any year, such surplus shall be carried into the general fund, and be subject to appropriation for any purpose. In case such fees shall not amount to the sum required for the administration of this Act, the deficiency shall be paid from any funds in the treasury not otherwise appropriated.

Section 109. Board of Supervisors shall furnish registrar all necessary books, etc.

Sec. 109. All books, blanks, papers, and all things necessary for the purpose of carrying out the provisions of this Act, shall be furnished by the Board of Supervisors, at the expense of the county.

Section 110. The Attorney-General, State Controller, and Secretary of State to prepare forms.

Sec. 110. The Attorney-General, State Controller, and Secretary of State shall prepare a uniform system of books, blanks, and forms for the use of the public officers required to perform duties under this Act, and such forms, and none other, shall be used by such officers.

#### Penalties.

Section 111. Fraudulent procurement of certificate, a felony.

Sec. 111. Whoever fraudulently procures, assists in fraudulently procuring, or is privy to the

fraudulent procurement of any certificate of title or other instrument, or of any entry in the register or other book kept in the registrar's office, or of any erasure or alteration in any entry in any said book, or in any instrument authorized by this act, or knowingly defrauds or is privy to defrauding any person by means of a false or fraudulent instrument, certificate, statement, or affidavit affecting registered land, shall be guilty of a felony, and fined not exceeding five thousand dollars, or be imprisoned not exceeding five years nor less than one year, or either, or both, in the discretion of the court.

Section 112. Forgery of seal, signature, or instrument in registrar's office, a felony.

Sec. 112. Whoever (1) forges, or procures to be forged, or assists in forging the seal of the registrar, or the name, signature, or handwriting of any officer of the registry office in cases where such officer is expressly or impliedly authorized to affix his signature; or (2) fraudulently stamps, or procures to be stamped, or assists in stamping any document with any forged seal of said registrar; or (3) forges, or procures to be forged, or assists in forging the name, signature, or handwriting of any person whomsoever to any instrument which is expressly or impliedly authorized to be signed by such person; or (4) uses any document upon which any impression, or part of the impression, of any seal of said registrar has been forged, knowing the same to have been forged, or any document, the signature to which has been forged, knowing the same to have been forged; or (5) swears falsely concerning any matter or procedure made and done in pursuance of this Act, shall be guilty of a felony, and imprisoned not exceeding ten years, nor less than one year, or fined not exceeding five thousand dollars, or both fined and imprisoned, in the discretion of the court.

Section 113. No proceeding or conviction under this Act shall affect any remedy at law or in equity.

Sec. 113. No proceeding or conviction for any act hereby declared to be a misdemeanor or a felony shall affect any remedy which any person aggrieved or injured by such act may be entitled to at law or in equity against the person who has

committed such act, or against his estate, or against the registrar, or upon his bond.

### Fees.

Section 114. Fees same as in similar cases under present laws, except as provided herein.

Sec. 114. First—The fees, in respect of applications and proceedings under them prior to registration, shall be the same as in actions in the Superior Court.

Second—There shall be paid to the registrar:

For issuing a certificate of title, including one duplicate thereof, one dollar and fifty cents.

For each additional duplicate, fifty cents.

For registering each transfer, including the issue and registration of the new certificate, one dollar and fifty cents.

For entry of each memorial on the register, including the indorsement upon the duplicate certificates, one dollar.

For the cancellation of each certificate, memorial, or charge, twenty-five cents.

For each certificate showing condition of register, one dollar and fifty cents.

For filing any instrument, or for a certified copy of the register, or of any instrument or writing on file in his office, the same fees allowed by law to Recorders for like services.

### Construction.

Section 115. Act to be liberally construed. Construction of similar legislation elsewhere, not adopted.

Sec. 115. This Act shall be construed liberally so far as may be necessary for the purpose of effecting its general intent, but does not adopt by implication the construction of any similar legislation of other jurisdictions which this Act may to any extent have followed.

Section 116. Act to take effect July 1, 1897.

Sec. 116. This Act shall take effect and be in force from and after the first day of July, eighteen hundred and ninety-seven.

## TOWN LANDS.

See Public Lands; State Lands.

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## TITLE 288.

## TRADEMARKS.

Act relating to: See Civil Code, Appendix, title "Trademarks," p. 835.

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## TITLE 289.

## TRAINING-SHIP.

An act to establish and maintain a training-ship in the city and county of San Francisco.

[Approved February 15, 1876; 1875-6, 54.]

Consult statutes of 1875-6 for the act.

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## TITLE 290.

## TREASURERS.

Acts relating to: See Political Code, Appendix, title, Treasurers, p. 1066.

Act increasing number of deputies for limited period, approved March 16, 1889; Stats. 1889, p. 303, was repealed March 26, 1895; Stats. 1895, p. 88.

See also an act for the better protection of the state treasury, approved March 30, 1868, and an act amendatory thereof approved March 15, 1895; Stats. 1895, p. 55.

An act for increasing the number of clerks for a limited period, approved March 16, 1889, was repealed March 26, 1895; Stats. 1895, p. 88.

## TITLE 291.

## TRESPASSING ANIMALS.

See Estrays; Goats; Hogs; Sheep; Stallions.

A collection of these acts will be found in Deering's Annotated Penal Code, p. 725 et seq.

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## TITLE 292.

## TRINITY COUNTY.

References to special acts relating to Trinity County are contained in Deering's Annotated Penal Code, pp. 734, 735.

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## TITLE 293.

## TULARE COUNTY.

References to special acts relating to Tulare County are contained in Deering's Annotated Penal Code, pp. 735, 736.

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## TITLE 294.

## TUOLUMNE COUNTY.

References to special acts relating to Tuolumne County are contained in Deering's Annotated Penal Code, pp. 737-738.

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## TITLE 295.

## UNINCORPORATED SOCIETIES.

Acts relating to: See Civil Code, Appendix, title, Co-operative Associations, p. 742 et seq.

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## TITLE 296.

## UNITED STATES SENATORS.

An act to ascertain and express the will of the people of the state of California upon the subject of election of United States senators.

[Approved March 10, 1891; Stats. 1891, p. 46.]

Whereas, it is expedient that the wishes of the people of this state upon the subject of the election of United States senators should be unmistakably expressed; therefore, the people of the state of California, represented in senate and assembly, do enact as follows:

X  
Section 1. That thirty days prior to the next general state election, the governor shall issue his proclamation calling upon the electors to signify, at said election, their will as to the method of the election of United States senators, by placing upon the ballots the words "For the election of United States senators by the direct vote of the people," or the words "Against the election of United States senators by the direct vote of the people"; and the inspectors and the judges of election at each and every poll in the state shall ascertain and make returns of the number of votes cast "For the election of United States senators by the direct vote of the people" and the number of votes cast "Against the election of United States senators by the direct vote of the people." in like manner as other votes are required to be counted and returned, and an abstract thereof shall be transmitted by each county clerk in the state to the secretary of state, in the same manner that votes for state officers are now required to be transmitted.

Sec. 2. The secretary of state shall make a complete abstract of the votes given at said election, and certify the same to the governor.

Sec. 3. The governor shall prepare a memorial from the people of the state of California, attested by the secretary of state, with the great seal of state attached, setting forth in brief the question submitted to the electors, and the vote thereon, and send copies thereof to the president and vice president of the United States, to each cabinet minister, senator, member of the house of



representatives, and the governor of each state and territory in the United States of America.

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## TITLE 297.

### UNIVERSITY OF CALIFORNIA.

A collection of the acts relating to the University of California will be found in Deering's Annotated Penal Code, pp. 738-742 and in Deering's Annotated Political Code under sections 1396, 1405 and 1415. In addition, consult the following:

An act to amend an act entitled "An act to create and organize the University of California," approved March 23, 1868, and an act amendatory of section twenty-five thereof, approved March 28, 1872, relating to the construction of buildings.

[Approved March 3, 1897, p. <sup>57</sup>65.]

An act to grant to the regents of the University of California the north one-half of section sixteen, township seven south, of range three east, Mount Diablo meridian, and authorize the exchange thereof.

[Approved March 16, 1889; 1889, 229.]

An act to provide for the payment of interest on the outstanding bonds of the state of California held in trust for the university fund and the state school fund; to repeal an act of the legislature of the state of California, approved March 4, 1881, entitled "An act to appropriate money to reimburse the University of California for moneys heretofore appropriated to the endowment fund thereof, which moneys have by mistake been withheld therefrom and appropriated to other state purposes," and making an appropriation to pay the interest on said outstanding bonds from January 1 to July 1, 1893.

[Approved March 3, 1893; Stats. 1893, p. 75.]

Gen. Laws—106.

*See*  
An act to provide additional support and maintenance, and for the acquisition of necessary property and improvements for the University of California, by the levy of a rate of taxation, and the creation of a fund therefor.

[Stat. approved February 27, 1897; Stats. 1897, chap. xlviii.]

The former act on this subject is in Stats. 1887, p. 2.

*See*  
An act to appropriate one hundred and twenty-five thousand dollars for the erection of buildings for the use of affiliated and other departments of the University of California, in San Francisco.

[Stat. approved February 23, 1897; Stats. 1897, chap. xvii.]

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## TITLE 298.

### VENTURA.

An act to create the county of Ventura, to establish the boundaries thereof, and to provide for its organization.

[Approved March 22, 1872; 1871-2, 484.]

Reference to other special acts relating to Ventura County are contained in Deering's Annotated Penal Code, p. 742.

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## TITLE 299.

### VETERANS' HOME ASSOCIATION.

*V*  
See, also, Aged Persons; Soldiers and Sailors.

Consult the following statutes:

An act to appropriate money for the support of aged persons in indigent circumstances residing in the home of the Veterans' Home Association.

[Approved March 7, 1883; 1883, 55.]

Acts amendatory of this act were approved Feb. 28, 1887; Stats. 1887, p. 6, and March 23, 1893; Stats. of 1893, p. 214.

See, also, an act authorizing associated veterans of Mexican war to exchange lands; Stats. 1871-2, 363.

An act amending the same; Stats. 1881, 66.

An act to appropriate the sum of fifty thousand dollars for the erection, completion, and furnishing of buildings, laundry, and bath-house, and for improvements of the grounds, heating and cooking apparatus, and water supply at the veterans' home, situate in Napa county, under the auspices of the veterans' home association of the state of California.

[Approved March 24, 1893; Stats. 1893, p. 339.]

The title expresses the purport of the act.

An act to appropriate the sum of ten thousand dollars for the construction of an additional cottage at the veterans' home, under the auspices of the veterans' home association, and for the completion of the principal building already in use, and to improve the water supply of said home.

[Approved February 28, 1887; 1887, 7.]

The title expresses the purport of the act.

An act to enable any county, city and county, city, or town to lease property to any association of veteran soldiers, sailors, or marines.

[Stat. approved March 11, 1897; Stats. 1897, chap. ciii.]

*Rev. P. C. 21388 a*

An act to authorize the directors of the veterans' home association to exchange certain lands in the city and county of San Francisco for certain other property belonging to said city and county, or for a lease of said property.

[Approved March 20, 1891; Stats. 1891, p. 184.]

An act to accept from the Veterans' Home Association the conveyance of, and to vest the title in the state of California, to the tract of land in Napa County known as the Veterans' Home, with the improvements and furnishings thereon, to make the same a state home for United States soldiers, sailors, and marines, and to provide for the government thereof by the State.

[Stat. approved March 11, 1897; Stats. 1897, chap. ci.]

Also an act of March 8, 1895, authorizing the state treasurer to pay over to the treasurer of the Home Association moneys received under act of Congress, Stats. 1895, p. 26.

## TITLE 300.

### VETERINARY SURGERY.

An act entitled an act to regulate the practice of veterinary medicine and surgery in the state of California.

[Approved March 23, 1893; Stats. 1893, p. 286.]

Section 1. It shall be unlawful for any person or persons to practice veterinary medicine and surgery in any city, city and county, or town in this state, having a population of two (2) thousand or more, without having previously obtained a diploma from a college duly authorized to grant such students in veterinary medicine and surgery, or to those who have passed satisfactory examinations before the state veterinary medical board, as hereinafter provided for.

Sec. 2. 1. This board of examiners shall be known as the state veterinary medical board, and shall consist of five duly qualified practitioners in

veterinary medicine and surgery, whose duty it shall be to carry out the purposes and enforce the provisions of this act.

2. The members of the state veterinary medical board shall be appointed by the governor of the state.

3. The board so appointed shall hold their offices for four (4) years, and the compensation of each member of said state veterinary medical board shall be five dollars per diem, exclusive of all necessary expenses while actually engaged in the duty of their office at the meetings of said board.

4. A meeting of the state veterinary medical board shall be held at least once in every six months after the appointment of said board by the governor of the state of California, such meetings to be held alternately in San Francisco and Los Angeles.

5. Three members of the state veterinary medical board shall constitute a quorum.

6. Said compensation to be paid out of the fees and penalties received under the provisions of this act, and no part of the salary or other expenses of the state veterinary medical board shall be paid out of the state treasury.

7. All moneys received by said state veterinary medical board as such fees and penalties, in excess of the compensation and expense of the state veterinary medical board, shall be annually paid into the state treasury, and become a part of the general fund of the state.

Sec. 3. 1. Said state veterinary medical board shall examine all diplomas as to their genuineness. Each applicant not holding a diploma shall submit to a theoretical and practical examination before the state veterinary medical board; said examination to be written or oral, or both, and sufficiently strict to satisfy said board that the applicant is competent to practice veterinary medicine and surgery.

2. An examination fee of five dollars shall be paid to the state veterinary medical board by the holder of a diploma, and ten dollars by an applicant not holding a diploma; said money shall be paid by the applicant before examination.

3. In case of failure of approval, said fee shall be forfeited to the state veterinary medical board.

Sec. 4. All examinations of persons not graduates shall be made directly by the state veterinary medical board, and the certificates given by said board shall authorize the possessor to practice veterinary medicine and surgery in the state of California. All examinations of ungraduated practitioners must take effect before the thirty-first day of December, eighteen hundred and ninety-three. After that date no certificate shall be granted, except to persons presenting diplomas from legally chartered colleges.

Sec. 5. Upon the approval of credentials, or upon approval of the examination of an applicant, said state veterinary medical board shall grant him or her a license to practice in this state, and shall receive therefor a fee of five dollars; said license shall be signed by a majority of the board.

Sec. 6. Any person qualified as required by this act shall, upon receipt of his license to practice, have said license prominently displayed in his office, and a true copy thereof shall be filed in the office of the clerk of the county in which he resides. Any person removing to another county to practice shall file the license in like manner in the county to which he removes. The holder shall pay to the county clerk the usual fees for filing. Any person holding such license who shall refuse or neglect to prominently display in his office, or file a copy of the same with the county clerk, as above directed, within six months after receiving such license shall forfeit his license; and no license when once forfeited shall be restored to the original holder except on the payment to said state veterinary medical board of the sum of twenty-five dollars, as a penalty for such failure, neglect, or refusal.

Sec. 7. Any person shall be regarded as practicing veterinary medicine and surgery, within the meaning of this act, who shall have received a license as mentioned in section five. But nothing in this act shall be construed to prohibit members of the medical profession from prescribing for domestic animals in case of emergency, and collecting a fee therefor, nor to prohibit gratuitous services in an emergency, nor prevent any person from practicing veterinary medicine or surgery on any animal belonging to himself or herself. And this act shall not apply to commissioned veterinary surgeons in the United States army.



Sec. 8. Any person practicing veterinary medicine or surgery in this state contrary to the provisions of this act shall be guilty of a misdemeanor, the penalty of which shall be a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or by imprisonment of not exceeding six (6) months, or by both.

Sec. 9. This act shall take effect sixty days from and after its passage.

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## TITLE 301.

### VITICULTURE.

See Agriculture; Forestry; Fruit-trees and Vines.

A collection of acts relating to Viticulture can be found in Deering's Annotated Penal Code, p. 744 et seq. 7

An act repealing acts relating to viticulture and transferring the property to the State University was approved March 27, 1895; Stats. 1895, p. 235.

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## TITLE 302.

### WAREHOUSES.

Act relating to: See Civil Code, Appendix, title Warehouses and Wharfingers, p. 839.

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## TITLE 303.

### WATER COMMISSIONERS.

The Political Code, sec. 19, continued in force all acts creating or regulating boards of water commissioners and overseers in the several townships or counties of the state.

A collection of the laws is contained in Deering's Annotated Penal Code, p. 750 et seq.

## TITLE 304.

## WATER COMPANIES.

Acts relating to: See Civil Code, Appendix, title, Water Companies, p. 843, et seq.

An act to enable the board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town to obtain data and information, from any corporation, company, or person supplying water to such city and county, city, or town, requiring such boards, town council, or other legislative body to perform the duties prescribed by section one of article fourteen of the constitution, and prescribing penalties for the non-performance of such duties.

[Approved March 7, 1881; Stats. 1881, 54.]

Municipal corporations to fix water rates.

Section 1. The board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town, are hereby authorized and empowered, and it is made their official duty, to annually fix the rates that shall be charged and collected by any person, company, association, or corporation, for water furnished to any such city or county, or city, or town, or the inhabitants thereof. Such rates shall be fixed at a regular or special session of such board or other legislative body, held during the month of February of each year, and shall take effect on the first day of July thereafter, and shall continue in full force and effect for the term of one year, and no longer.

Annual statements to be made by water companies, etc.

Sec. 2. The board of supervisors, town council, board of aldermen, or other legislative body of any city and county, city, or town, are hereby authorized, and it is hereby made their duty, at least thirty days prior to the fifteenth day of January of each year, to require, by ordinance or otherwise any corporation, company, or person sup-

plying water to such city and county, city, or town, or to the inhabitants thereof, to furnish to such board, or other governing body, in the month of January in each year, a detailed statement, verified by the oath of the president and secretary of such corporation or company, or of such person, as the case may be, showing the name of such water-rate payer, his or her place of residence, and the amount paid for water by each of such water-rate payers, during the year preceding the date of such statement, and also showing all revenue derived from all sources, and an itemized statement of expenditures made for supplying water during said time.

Additional statement.

Sec. 3. Accompanying the first statement made as prescribed in section two of this act, every such corporation, company, or person shall furnish a detailed statement, verified in like manner as the statement mentioned in section two hereof, showing the amount of money actually expended annually, since commencing business, in the purchase, construction, and maintenance, respectively, of the property necessary to the carrying on of its business, and also the gross cash receipts annually, for the same period, from all sources.

Refusal to make statement a misdemeanor.

Sec. 4. Every corporation, company, or person who shall refuse or neglect to furnish the statements mentioned in sections two and three of this act, or either of them, or who shall furnish any false statement in relation thereto, within thirty days after having been required or requested to furnish the same as prescribed in sections one, two, and three of this act, shall be deemed guilty of a misdemeanor.

Copy of statement to be filed.

Sec. 5. Upon receiving the statements provided for in sections two and three of this act, the board of supervisors, town council, board of aldermen, or other legislative body, shall cause a copy thereof to be made and filed in the office of the county recorder of such city and county, or of the county wherein such city or town is situated.

Rates to be equal.

Sec. 6. Rates for the furnishing of water shall

be equal and uniform. There shall be no discriminations made between persons, or between persons and corporations, or as to the use of water for private and domestic, and public or municipal purposes; provided, that nothing herein shall be so construed as to allow any person, company, association, or corporation to charge any person, corporation, or association anything for water furnished them when, by any present law, such water is free.

Excess in charging rates, forfeits franchise, etc.

Sec. 7. Any person, company, association, or corporation charging, or attempting to collect from the persons, corporations, or municipalities using water, any sum in excess of the rate fixed as hereinbefore designated, shall, upon the complaint of said board of supervisors, town council, board of aldermen, or other legislative body thereof, or of any water-rate payer, and upon conviction before any court of competent jurisdiction, shall forfeit the franchises and water-works of such person, company, association, or corporation to the city and county, city or town, wherein the said water is furnished and used.

Penalty to supervisors neglecting to enforce act.

Sec. 8. Any board of supervisors or other legislative body of any city and county, city or town which shall fail or refuse to perform any of the duties prescribed by this act, at the time and in the manner hereinbefore specified, shall be deemed guilty of malfeasance in office, and upon conviction thereof, at the suit of any interested party, in any court of competent jurisdiction shall be removed from office.

Sec. 9. This act shall take effect and be in force from and after the date of its passage.

## TITLE 305.

## WATERS.

San Joaquin river, act to improve navigation of.  
[Stats. 1865-6, p. 536.]

San Joaquin river, act concerning survey of outlet of. [Stats. 1867-8, p. 91.]

An act declaring the San Joaquin river and the Stockton slough navigable from and to certain points herein named.

[Approved February 21, 1872; 1871-2, 117.]

An act declaring a certain creek in Washington township, Alameda county, navigable.

[Approved March 8, 1872; 1871-2, 307.]

An act to declare Lake Earl in Del Norte county navigable.

[Approved February 4, 1874; 1873-4, 59.]

An act declaring Alameda creek, in the county of Alameda, a navigable stream, and providing for the removal of obstructions therefrom.

[Approved March 7, 1874; 1873-4, 308.]

An act declaring the Moro Cojo slough navigable.

[Approved March 30, 1874; 1873-4, 790.]

An act declaring Gallinas slough, or creek, in Marin county, navigable.

[Approved March 25, 1876; 1875-6, 485.]

An act declaring Sonoma river, in Sonoma county, navigable.

[Approved February 11, 1878; 1877-8, 72.]

An act to declare Clear lake, in Lake county, navigable.

[Approved March 29, 1878; 1877-8, 630.]

An act to declare Smith river, in Del Norte county, navigable.

[Approved March 30, 1878; 1877-8, 799.]

Alameda county, navigable streams in. [Stats. 1867-8, pp. 486, 680.]

Arroyo del Medo. act declaring Arroyo del Medo, in Santa Clara county, navigable. [Stats. 1852, p. 223.]

Arroyo del San Antonio (Keys creek), declared navigable. [Stats. 1860, p. 126; 1873-4, p. 564.]

Cache creek, act granting right to open channel. [Stats. 1858, p. 303.]

Diablo creek, declared navigable. [Stats. 1858, p. 127.]

Feather river, act concerning survey of outlet of. [Stats. 1867-8, p. 91.]

Islais creek, declared navigable. [Stats. 1867-8, p. 356.]

Kings river, amending act for improvement of and erecting booms therein. [Stats. 1877-8, p. 961.]

Kings river, improvement of. [Stats. 1871-2, p. 422; 1875-6, p. 499.]

Little Truckee river, improvement of. [Stats. 1871-2, p. 70.]

Mad river, act to improve. [Stats. 1877-8, p. 788.]

Marin county, act declaring certain creeks navigable. [Stats. 1861, p. 469; 1869-70, p. 663.]

Mission creek, declared navigable. [Stats. 1854, p. 18.]

Mormon slough, widened. [Stats. 1871-2, p. 540.]

Navarro river, improvement of. [Stats. 1859, p. 325.]

Novato creek, declared navigable. [Stats. 1860, p. 257.]

Nueces creek, declared navigable. [Stats. 1858, p. 127.]

Petaluma creek, act concerning improvement of. [Stats. 1865-6, p. 487.]

Mokelumne river, act to improve navigation of. [Stats. 1863-4, p. 417.]

An act to declare the Mokelumne river navigable. [Approved April 3, 1880; 1880, 22 (Ban. ed. 115).]



An act to declare the Klamath river navigable.  
[Approved April 23, 1880; 1880, 136 (Ban. ed. 402).]

Sacramento river, cleaning and deepening of.  
[Stats. 1865-6, p. 301.]

Sacramento river, act concerning survey of outlet of. [Stats. 1867-8, p. 91.]

Salinas river, declared navigable. [Stats. 1861, p. 49.]

San Antonio creek, act to improve navigation of. [Stats. 1859, p. 327.]

San Antonio creek, act providing for opening channel across bar at mouth of. [Stats. 1860, p. 162; 1861, p. 20.]

Stanislaus river, act to provide for improvement of. [Stats. 1867-8, p. 684.]

Walnut creek, act improving navigation of. [Stats. 1867-8, p. 484.]

Warm Springs creek, declared navigable. [Stats. 1871-2, p. 307.]

An act to provide for the location of tow-paths along the banks of navigable streams.

[Approved April 1, 1872; 1871-2, 940.]

Authority given.

Section 1. The board of supervisors of each county in the state may, when public convenience for the purpose of commerce requires it, cause to be located and opened a tow-path, not exceeding ten feet in width, along the bank or banks of any navigable stream within the county.

Viewers.

Sec. 2. In order to locate and open such tow-path, the same proceedings in regard to petition, viewers, etc., shall be taken as are now by law required to be taken in the respective counties of this state for the purpose of locating and opening public roads and highways.

Water frontage.

Sec. 3. The owner or owners of any land over which a tow-path shall be located and opened  
Gen. Laws—107.

shall not be deprived of the water frontage nor of the free use and enjoyment of any land so located, subject only to the right of the public to use the same for the purposes of commerce.

Fences.

Sec. 4. It shall not be necessary to construct or maintain fences on either side of any tow-path so located, but the board of supervisors may make all necessary rules and regulations for the government and management of tow-paths, and may provide for the erection of gates thereon and for the full and complete protection of the property through which the same passes.

Sec. 5. This act shall take effect from and after its passage.

An act to authorize the board of supervisors of the several counties in this state to grant franchises and privileges to corporations, associations, or individuals.

[Approved March 3, 1881; Stats. 1881, 25.]

Privileges to construct booms.

Section 1. The board of supervisors of any of the counties of this state are hereby authorized and empowered to grant the privilege of constructing booms for the purpose of holding logs and timber to companies, corporations, or individuals, and to prescribe the conditions on which the same shall be maintained, and the prices which may be charged for the use of the same.

Sec. 2. This act will be in force from and after its passage, provided that navigation shall not be interfered with thereby.

An act authorizing the boards of supervisors of the several counties of this state to declare innavigable streams highways for the floating of logs and timber, and provide for the improvement and use of the same.

[Approved March 7, 1889; Stats. 1889, p. 85.]

Boards of supervisors may declare innavigable streams public highways for certain purposes.

Section 1. Upon application of any individual,

association, or corporation interested, the board of supervisors of any county of this state may, by ordinance, declare all or any portion of any river or stream lying within the county which has not been declared by law to be navigable, and which is not in fact navigable for commercial purposes, to be a public highway for the floating and transportation of logs, timber, and lumber, and the same shall thereupon become and be a public highways for such purpose, subject only to the reservations hereinafter contained; and the board may also, at the same time or at any time thereafter, direct the widening, deepening, straightening, removing obstructions from, building of dams and booms in, and otherwise improving such streams as may be necessary to render the same fit and suitable for the purpose intended, and enter into contracts for the performance of such work according to law.

Purchase or condemnation of lands by boards of supervisors.

Sec. 2. In case any owner of land adjacent to or across which such stream flows does not consent to the use of the stream for such purpose, and the making of the improvements directed, with the right to pass along the banks of the stream for the purpose of doing the work, and keeping the same in repair, and properly superintending and managing the use of such highway for the purpose intended, and the taking, at a fair rate of compensation, of such timber and other materials along the bed and banks of the stream as may be necessary for the construction and repair of the improvements, and grant the same to the county by suitable instrument in writing, on application, the board of supervisors may contract for and purchase any or all of such rights; or if the same cannot be purchased at a satisfactory price, may authorize proceedings to be commenced in the name of the county to condemn and procure the same in the manner directed by title seven, part three, of the Code of Civil Procedure.

Right of supervisors to contract to lease such highway.

Sec. 3. Instead of itself securing the various rights and making the improvements necessary,

the board may enter into a contract with any corporation, association, or individual, leasing the use of such highway, with the right to collect tolls for the rafting, floating, and booming of logs, timber, and lumber thereon, at rates of toll for transporting and for booming to be fixed by the board for a period of years from the completion of the work to be fixed by the board, in consideration of an agreement in such contract to be contained that the lessee will secure the right of way, and other necessary rights, from land owners, and make all improvements necessary for the successful carrying on of the business and use of the stream for the purpose intended, without any expense to the county, and keep the same in good repair during the period of such lease.

#### Bonds of lessee.

Sec. 4. Within twenty days from the making of such contract, and before the same shall go into effect, the lessee shall enter into a bond in such sum as may be fixed by the board, and with sureties approved by the board, conditioned for the faithful performance of the covenants and agreements on the part of the lessee in such contract contained.

#### Power of lessee to condemn and secure right of way.

Sec. 5. Such lessee shall have power to proceed in the name of the county to condemn and secure the right of way, and other rights and privileges referred to in section two of this act, in the manner directed by the provisions of title seven, part three, of the Code of Civil Procedure.

#### Privileges of lessee.

Sec. 6. Such lessee during the term of such lease shall receive and float, or allow to be floated, in such stream, all floatable logs, timber, and lumber that may be offered for transportation therein by any person; provided the same be plainly marked with a distinctive mark, and shall have the right to charge and collect for its own use tolls therefor, and for booming the same, at rates fixed by the board of supervisors and inserted in the lease, and shall have a lien thereon

for such tolls, which may be enforced in the manner provided in section three thousand and fifty-two of the Code of Civil Procedure.

Duty of lessee on expiration of lease.

Sec. 7. Upon expiration of the lease, such lessee shall turn the property, with all improvements, over to the county in good repair.

Construction of act.

Sec. 8. This act shall not be construed as repealing any existing law of this state upon the subject to which it relates, not inconsistent with its provisions.

Sec. 9. This act shall take effect from and after its passage.

An act to provide for the appointment of an examining commission on rivers and harbors, defining their duties and powers, and prescribing their compensation.

[Approved March 19, 1889; Stats. 1889, p. 420.]

Appointment of engineers.

Section 1. The governor of the state, within thirty days after the passage of this act, shall appoint three competent engineers in good standing in their profession, to be known and called the examining commission on rivers and harbors. The persons so appointed shall hold office until the first day of January, eighteen hundred and ninety-one. In case any vacancy may arise in such commission from any cause, the governor shall immediately fill such vacancy by appointment.

Oath of office.

Sec. 2. Each of said commissioners shall, before entering upon the discharge of his duties, take and subscribe an oath of office. The said commission shall organize by electing a president and secretary.

Duty of commission.

Sec. 3. The said commission shall make a full and careful examination into the condition of the Sacramento and San Joaquin rivers, and such other rivers and streams as they may select for that purpose. They shall determine what

steps are necessary for the rectification and improvement of such rivers and streams, and shall make, or cause to be made, all such necessary and proper surveys, examinations, maps, designs, drawings, estimates, specifications, and exhibits as will enable the congress of the United States to clearly understand the condition of such rivers, and the cost and expense of properly rectifying and improving the same. The said commission shall, whenever requested by the governor, also make an examination for a similar purpose into such harbors as they may be so required to examine. Said commission shall have power to employ such persons at such compensation as they may deem proper, as surveyors or assistants in any of the work herein above specified.

#### Report of.

Sec. 4. The said commission shall make a full report on or before the first day of October, eighteen hundred and ninety, to the governor, on the matters herein specified, which said report shall be in such form and contain such calculations, specifications, and estimates as that it may be to congress as the basis of an appropriation by congress for the improvement of the Sacramento and San Joaquin rivers, and other navigable streams of the state, and of such bays and harbors as may have been examined by said commission as herein provided. The superintendent of state printing shall print and publish as many copies of said report and exhibits as may be ordered by the governor.

#### Salaries.

Sec. 5. Each member of the said commission shall receive a salary of two thousand four hundred dollars per annum, payable monthly, and his traveling expenses while engaged in the performance of official duties. Said salary and expenses to be paid out of any money in the state treasury not otherwise appropriated.

Sec. 6. This act shall take effect and be in force from and after its passage.



TITLE 306.

WEIGHTS AND MEASURES.

An act to establish a standard of weights and measures.

[Approved April 6, 1891; Stats. 1891, p. 487.]

Consult statutes of 1891 for the act.

*Act 7, chap. 8, Rev. Stat.*

TITLE 307.

WHARFINGERS.

Act relating to: See Civil Code, Appendix, title, Warehouses and Wharfingers, p, 839.

*Rev. C. C. 1858 & 1891*

TITLE 308.

WHARVES.

The Political Code, secs. 2906 et seq., 2520 et seq., and 2567 et seq., seems to have superseded the old legislation on the subject of wharves. See, however, a special act in relation to a portion of Contra Costa county. It is entitled "An act concerning public wharves," approved March 28, 1872; 1871-2, 657. This act authorizes the owners or occupants of lands on the San Joaquin river, between its junction with the Sacramento and the eastern boundary of the county, to erect and maintain free wharves.

*Wharves*

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WILD ANIMALS.

See Game.

## TITLE 309.

## WILMINGTON.

8  
An act to repeal an act entitled "An act to incorporate the town of Wilmington, in the county of Los Angeles, in the state of California," approved February 20, 1872.

[Approved March 12, 1887; 1887, 108.]

The purport of the act appears from the title. It took effect from its passage.

8  
An act to repeal an act entitled "An act to amend an act entitled 'An act to incorporate the town of Wilmington, in the county of Los Angeles, in the state of California,' approved February twentieth, eighteen hundred and seventy-two," approved March 21, 1872.

[Approved March 12, 1887; 1887, 109.]

The purport of the act appears from the title. It took effect from its passage.

## TITLE 310.

## WOMAN'S RELIEF CORPS.

9  
10  
An act to assist the Woman's Relief Corps Home Association to provide for ex-army nurses, and the worthy destitute widows, wives, mothers, and destitute maiden daughters or sisters of veterans who served honorably in the war for the Union, and making an appropriation therefor.

[Stat. approved April 1, 1897; Stats. 1897; chap. cclxxiv.]

Consult statutes of 1897 for the act.

An act to provide for the deficiency in the appropriation for support and maintenance of the widows and orphans of Union soldiers, sailors, and marines, and for ex-Union army nurses residing at Evergreen, in the county of Santa Clara, at the home in said county, and under the auspices of the Woman's Relief Corps Home Association, for the forty-eighth fiscal year. 7

[Stat. approved April 1, 1897; Stats. 1897, chap. cclxxiii.]

The act appropriated \$3,000 for the purpose indicated.

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### TITLE 311.

#### WORLD'S EXHIBITION.

An act to enable the state of California to make a proper exhibition of her material resources at the world's exposition at New Orleans. 7

[Approved February 10, 1885; 1885, 2.]

The act appropriated \$10,000 for the purpose indicated.

An act appropriating money to pay the expenses of maintaining an exhibit of the products of the state of California at the world's Columbian exposition, to be held in Chicago in eighteen hundred and ninety-three, and to provide for the commissioners thereof. 7

[Approved March 6, 1891; Stats. 1891, p. 24.]

An act to provide for the preparation, printing, and distribution of a volume expository of the resources of California, at the world's Columbian exposition at Chicago, and appropriating money therefor. 7

[Approved March 11, 1893; Stats. 1893, p. 149.]

An act appropriating money to pay the expense of transporting, insuring, and installing of a California's exhibit in the woman's building of the world's Columbian exposition.

[Approved March 11, 1893; Stats. 1893, p. 149.]

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## TITLE 312.

### YOLO COUNTY.

References to special acts relating to Yolo county are contained in Deering's Annotated Penal Code, pp. 754 and 755.

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## TITLE 313.

### YOSEMITE VALLEY.

*Penal*  
An act to appropriate money for the survey, location, and construction of a free wagon road from the town of Mariposa in Mariposa county, to the Yosemite valley.

[Approved March 26, 1895; Stats. 1895, p. 87.]

Fifty thousand dollars was appropriated for the purpose indicated.

For other acts relating to Yosemite Valley consult Deering's Annotated Political Code under section 3586 and Deering's Annotated Penal Code, p. 755.

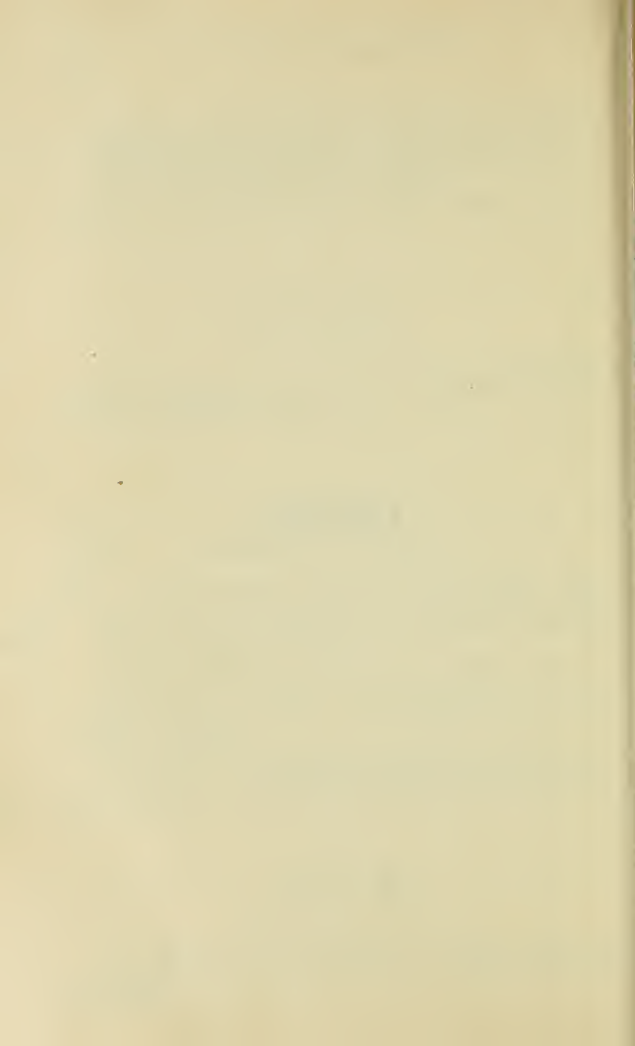
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## TITLE 314.

### YUBA COUNTY.

A reference to acts relating to Yuba County is contained in Deering's Annotated Penal Code, pp. 756, 757.

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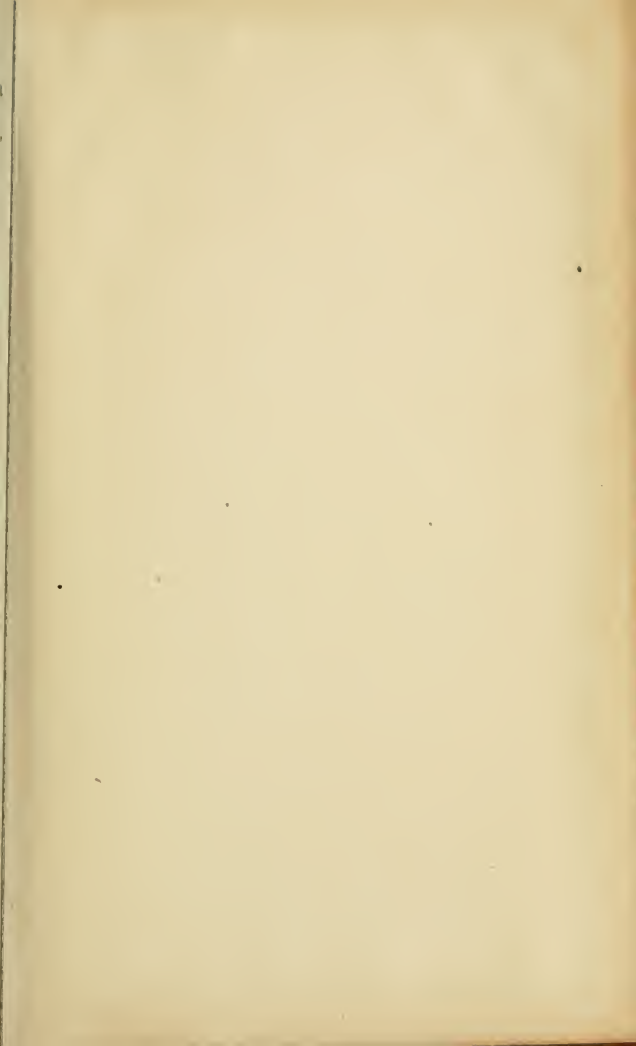
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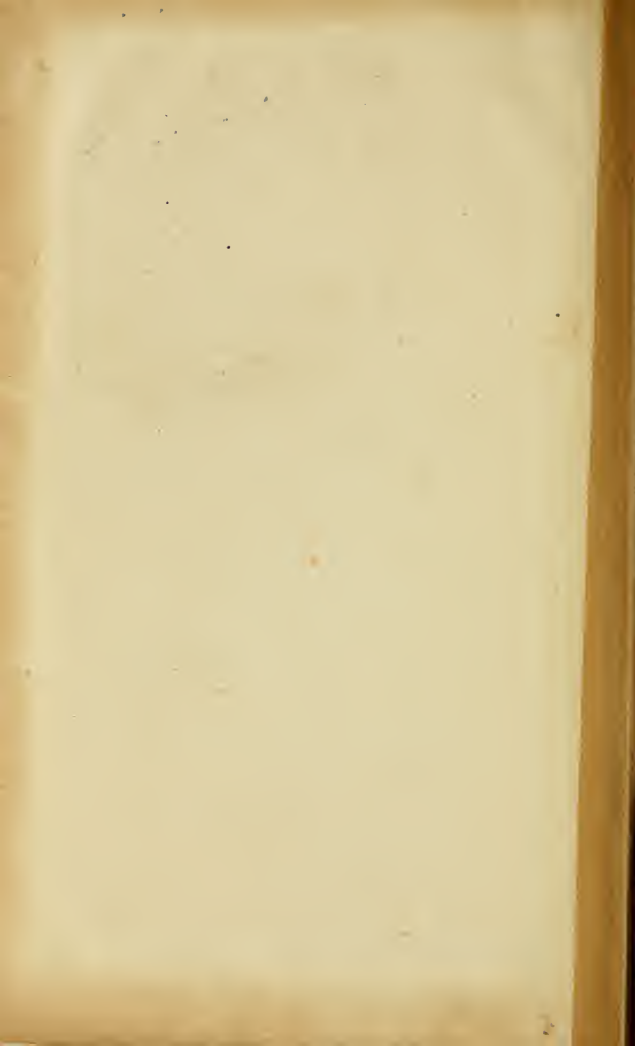
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